

Message

From: Hassell, Emily [hassell.emily@epa.gov]
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To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: News Clips - 5 March 2018

(Full stories, highlights, and details are listed further down in the email, and can be jumped to by clicking on any of the links below.)

Administrator Pruitt's 2005 Comments

[Daily Caller - Politico Uncovers Old Tapes Revealing Scott Pruitt's Views](#)

[The Hill - Old Pruitt recordings show him doubting evolution](#)

[Politico - Pruitt tapes revealed: Evolution's a 'theory,' 'majority' religions under attack](#)

Bay Journal Funding

[Washington Post - Under pressure from Senate Democrats, EPA restores funding for the Bay Journal](#)

[The Hill - EPA restores funding to Chesapeake Bay newspaper](#)

[E&E Greenwire - EPA restores funding to Md. newspaper](#)

Peter Wright's Nomination

[AP - Trump picks Dow Chemical lawyer for key role at EPA](#)

[Reuters - Trump nominates Dow Chemicals lawyer to oversee EPA toxic waste program](#)

[The Hill - Trump taps chemical company lawyer to lead EPA Superfund office](#)

[Politico - Trump picks Dow attorney to run EPA land office](#)

[E&E News PM - Trump taps Dow official to oversee EPA waste program](#)

Coal Ash Headlines

[Washington Post - EPA moves to overhaul Obama-era safeguards on coal ash waste](#)

[The Hill - New EPA rule gives states power to determine coal ash disposal](#)

[Reuters - EPA proposes changes to coal ash regulations](#)

[AP - US utilities find water pollution at coal ash dumps](#)

[Washington Examiner - EPA rule gives states more power to manage toxic coal ash](#)

[E&E Greenwire - EPA moving to change its landmark disposal rule](#)

General

[E&E Greenwire - 'Security component' to not releasing calendar — Pruitt](#)

[Washington Examiner - EPA starts dismantling Obama methane rules on new fracking wells](#)

[AP - Trump EPA moves to roll back more rules on fuels pollution](#)

[Politico - EPA appointees got ethics waivers on RFS, agriculture issues](#)

[E&E News PM - Top science adviser uncertain about human role in warming](#)

[E&E News PM - Chemicals official cleared to weigh in on industry litigation](#)

[The Hill - Week ahead: House takes up bills targeting EPA regs](#)

[Bloomberg - Third White House Biofuel Summit This Week Ends Without Deal](#)

[Politico - Sources: Trump open to expanding ethanol, seeks new meeting](#)

[Politico - EPA gives oil and gas companies up to 2 years to fix methane leaks](#)

[E&E Energywire - EPA changes methane rule, pollution-reduction guidelines](#)

[Politico - EPA issues ozone threshold implementation rule](#)

[E&E News PM - EPA issues nonattainment framework for 2015 ozone standard](#)

[AP - Seafood processor, EPA reach settlement on waste violations](#)

[Washington Examiner - Refinery workers push to fix broken ethanol mandate](#)

[Politico - Court keeps Clean Power Plan case on hold](#)

[E&E News PM - Court extends hold on litigation](#)

[AP - Groups, US reach settlement on predator-killing poisons](#)

[AP - US, Alaska officials say pollution should be handled locally](#)

[AP - EPA denies permit challenges of federal utility coal plant](#)

[E&E Daily - Vote set on carve-outs for coal waste plants, kilns](#)

[Politico - At its midpoint, landmark Chesapeake Bay cleanup faces new stress](#)

[E&E Climatewire - N.J. leaves legal fight after electing Democratic governor](#)

[AP - Federal agency awards \\$184K water grant to Tompkinsville](#)

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Daily Caller

<http://dailycaller.com/2018/03/03/politico-scott-pruitt-tapes/>

Politico Uncovers Old Tapes Revealing Scott Pruitt's Views

By David Krayden, 3/3/18, 5:46 PM

Recordings made by Environmental Protection Agency administrator Scott Pruitt are raising eyebrows because of his his Christian conservative views on a variety of issues.

The over a decade old tapes, obtained by Politico, show how the then-Oklahoma state senator described the theory of evolution as a theory, lamented activist judges, expressed pro-life sentiments and strongly condemned same-sex marriage. Many Republican — and some Democrat — voters held similar views then and do today.

Pruitt was critical of the “judicial monarchy” that he says activist judges have become in America while castigating Islam as “not so much a religion as it is a terrorist organization in many instances.”

Politico suggested Pruitt's views are “at odds with the broader American mainstream, and in some cases with accepted scientific findings.”

Responding to Politico's assertion that Pruitt's scientific “skepticism” undermined his leadership of an organization that was committed to making “science-based decisions,” EPA spokesman Jahan Wilcox responded: “If you're insinuating that a Christian should not serve in capacity as EPA administrator, that is offensive and a question that does not warrant any further attention.”

Congressional Republicans also backed Pruitt's credentials to head a federal agency, saying his Christian faith should not disqualify him from the position.

“All of us are people of faith and obviously influenced by our faith and the role it played in our life ... and continue[s] to play in our life on a daily basis. It's part of who we are,” Wyoming Sen. John Barrasso, told Politico. Barrasso is chairman of the Environment and Public Works Committee.

Sen. Jim Inhofe, who is also from Oklahoma, told Politico that Pruitt's Christianity obviously asserts itself in his life and work.

“He's a believer. He is a Jesus guy. He believes in the principles...Anyone who denies that that has an impact isn't being totally honest,” he said.

The Hill

<http://thehill.com/homenews/administration/376537-epa-chief-pruitt-there-arent-sufficient-facts-to-prove-theory-of>

Old Pruitt recordings show him doubting evolution

By John Bowden, 3/2/18, 6:28 PM

The Trump administration's head of the Environmental Protection Agency (EPA) told a Oklahoma radio station in 2005 that there wasn't "sufficient" evidence for him to accept evolution as fact, Politico reported Friday.

Pruitt, then an Oklahoma state senator, told state radio station KFAQ-AM during a six-hour civics class-style conversation that the origins of mankind was less a "scientific" question than a "philosophic" one.

"There aren't sufficient scientific facts to establish the theory of evolution, and it deals with the origins of man, which is more from a philosophical standpoint than a scientific standpoint," Pruitt says in the tapes uncovered by Politico.

Pruitt oversees an agency responsible for scientific studies upon which the Trump administration will base environmental policy. In the past, the former lawmaker has also expressed skepticism for the scientific theory of climate change.

The theory of evolution states that modern man evolved over time rather than being created in its present form. Ninety-eight percent of scientists in the American Association for the Advancement of Science say they accept this as fact, compared to just 62 percent of the adult U.S. population, according to the Pew Research Center.

In the same interview, Pruitt did not dispute a statement from the radio host claiming that Islam is "not so much a religion as it is a terrorist organization." The Oklahoma Republican defended the rights of Muslims to practice their faith in the U.S. so long as it isn't "manifested in violence."

"Our First Amendment should preserve the right of Hindus and Muslims to practice their faith. I believe that with all my heart. But what I don't agree with is that because of that relationship, if it is manifested in violence as Gwen is saying, that we don't have the right to deal with that," Pruitt said.

Presented with Pruitt's statements on the radio show, Republicans in Congress defended the EPA chief as a Christian whose beliefs naturally impact his work.

"All of us are people of faith and obviously influenced by our faith and the role it played in our life ... and continue[s] to play in our life on a daily basis," said Sen. John Barrasso (R-Wyo.), chairman of the Environment and Public Works Committee, which oversees Pruitt's agency. "It's a part of who we are."

Politico

<https://www.politico.com/story/2018/03/02/scott-pruitt-epa-evolution-theory-abortion-gay-marriage-433284>

Pruitt tapes revealed: Evolution's a 'theory,' 'majority' religions under attack

By Emily Holden and Alex Guillen, 3/2/18, 5:00 AM

Environmental Protection Agency Administrator Scott Pruitt dismissed evolution as an unproven theory, lamented that "minority religions" were pushing Christianity out of "the public square" and advocated amending the Constitution to ban abortion, prohibit same-sex marriage and protect the Pledge of Allegiance and the Ten Commandments, according to a newly unearthed series of Oklahoma talk radio shows from 2005.

Pruitt, who at the time was a state senator, also described the Second Amendment as divinely granted and condemned federal judges as a "judicial monarchy" that is "the most grievous threat that we have today." And he did not object when the program's host described Islam as "not so much a religion as it is a terrorist organization in many instances."

The six hours of civics class-style conversations on Tulsa-based KFAQ-AM were recently rediscovered by a firm researching Pruitt's past remarks, which provided them to POLITICO on condition of anonymity so as not to identify its client. They reveal Pruitt's unfiltered views on a variety of political and social issues, more than a decade before the ambitious Oklahoman would lead President Donald Trump's EPA.

The views he states, in discussions peppered with references to inalienable rights and the faith of the nation's founders, are in line with those of millions of other conservative, devout Christians. But they also show stances that at times are at odds with the broader American mainstream, and in some cases with accepted scientific findings — an issue that has more recently come up with his skepticism about the science behind climate change.

"There aren't sufficient scientific facts to establish the theory of evolution, and it deals with the origins of man, which is more from a philosophical standpoint than a scientific standpoint," he said in one part of the series, in which Pruitt and the program's hosts discussed issues related to the Constitution.

EPA would not say this week whether any of Pruitt's positions have changed since 2005. Asked whether the administrator's skepticism about a major foundation of modern science such as evolution could conflict with the agency's mandate to make science-based decisions, spokesman Jahan Wilcox told POLITICO that "if you're insinuating that a Christian should not serve in capacity as EPA administrator, that is offensive and a question that does not warrant any further attention."

Republicans in Congress defended Pruitt, saying his religious beliefs should factor into how he does his job.

"All of us are people of faith and obviously influenced by our faith and the role it played in our life ... and continue[s] to play in our life on a daily basis," said Wyoming Sen. John Barrasso, chairman of the Environment and Public Works Committee, which oversees EPA. "It's a part of who we are."

Sen. Jim Inhofe, a fellow Oklahoman, said Pruitt's faith does and should play a role in his work.

"He's a believer. He is a Jesus guy. He believes in the principles," Inhofe said. "I think it does [have an impact], and I think it has to. Anyone who denies that that has an impact isn't being totally honest."

Andrew Rosenberg, director of the Center for Science and Democracy at the Union of Concerned Scientists — a group that has criticized Pruitt's environmental policies — said Pruitt's religious beliefs aren't relevant to his leadership of EPA "because the job is not to be the nation's pastor." But his group still worries that Pruitt has chosen to "sideline science" and "wants to make decisions on a wholly political basis."

"If I had to say if there was a philosophy behind his decisions, it's 'Industry is always right and we should just get out of the way,'" Rosenberg said.

Pruitt expounded his philosophy on a wide variety of topics during the radio discussions, which originally appeared under the heading "KFAQ University — Standing Up For What's Right." Five years after they originally aired, the programs were posted on Pruitt's campaign website in 2010 when he ran for Oklahoma attorney general.

The discussions among Pruitt and the hosts always began with the Pledge of Allegiance and often stuck to dry reviews of the historical context of the Revolutionary War and the Constitution's origins. But they sometimes swerved into modern-day political frustrations, often with religious overtones.

Pruitt, a former Baptist deacon who was previously a trustee of the Southern Baptist Theological Seminary in Louisville, Ky., acknowledged that the founders of the United States did not want a church to run the government. But still, he explained at length, society should be centered on certain religious ideals or it will fall into "chaos."

In the current political atmosphere, he said, "We're saying to a certain category of religion, 'No, you can't be a part of the public square, because you are the majority religion, historically. We're going to make sure that the minority religions are built up and encouraged, but the majority religion is going to be shifted aside.' Now that violates, again, individual liberty."

He frequently referred to atheism and humanism, which stresses the potential for humans to be good, as religions that enjoy more rights to expression than Christianity.

"I believe that it's time for us to say, let us be truthful and honest about who we are as a country because if we protect the principles of the First Amendment, we will respect all religions and each will be able to freely exercise what they believe in the public square," Pruitt said.

History has proven that people will not do what's right without religious principles to guide them, Pruitt said.

"When you take out this aspect of who we are as a republic, and you try to eradicate it from who we are, it leads to what? 'Each man did what was right in his own eyes,' and you have chaos," Pruitt said.

He added that without changes to protect constitutional rights, "it leads to anarchy, it leads to rebellion," which he predicted could happen within the next few decades or sooner.

In one episode, a host suggested that Islam "is not so much a religion as it is a terrorist organization, in many instances." The host, Gwen Freeman, added: "You can believe whatever you want to, but if you're going to be hiding behind a mosque and teaching people in your mosques to harm other people, that's where you have to draw the line."

"Absolutely," Pruitt responded, going on to talk about the relationship between God and believers and saying that people should be able to practice any religion unless it is manifested in violence. "Our First Amendment should preserve the right of Hindus and Muslims to practice their faith. I believe that with all my heart. But what I don't agree with is that because of that relationship, if it is manifested in violence as Gwen is saying, that we don't have the right to deal with that."

Pruitt didn't explicitly endorse or dispute her description of Islam as a terrorist organization.

Throughout the programs, Pruitt suggested that states might need to call a constitutional convention to propose amendments that would allow expression of religion in government, declare abortion illegal and bar same-sex marriage.

Pruitt acknowledged some trepidation about holding a constitutional convention, which could make wholesale changes to the nation's founding charter.

"It scares me to a large degree to go into something like a constitutional convention, 'cause that means that we're going to have to really be educated, and informed, and debate," he said. "But you know what? Maybe it's time."

Federal courts have interpreted the Constitution to require the separation of church and state and have expanded upon that in a series of cases, including a 1947 decision prohibiting New Jersey from using public funds to bus students to Catholic schools.

Pruitt disagreed, saying: "I think the most grievous threat that we have today is this imperialistic judiciary, this judicial monarchy that has it wrong on what the First Amendment's about and has an objective to create religious sterility in the public square, which is wholly inconsistent with the Founding Fathers' view."

He also weighed in on a 2005 Supreme Court case that involved a display of the Ten Commandments at the Texas State Capitol. He argued that prohibiting such displays elevated atheist beliefs above Jewish and Christian ones.

Two years earlier, Pruitt had supported an unsuccessful bill that would have required textbooks in Oklahoma to carry a disclaimer that evolution is a theory. The show hosts joked that Pruitt had been compared to Adolf Hitler and the Taliban for backing the measure.

"I'm a bit better-looking than them," Pruitt quipped. "My wife tells me so anyway."

In the 2005 recordings, Pruitt also backed a broad interpretation of the Second Amendment's right to bear arms, saying it derives from a divine mandate and thus cannot be limited.

"If you can tell me what gun, type of gun, I can possess, then I didn't really get that right to keep and bear arms from God," he said. "It was not bequeathed to me, it was not unalienable, right?"

Even some issues that aren't explicitly faith-based, such as global warming and fossil fuel production, have often split different groups of religious believers. Some polls show that less than 30 percent of white evangelical Protestants believe that human activity is the driving factor behind climate change.

And Pruitt has echoed that sentiment, telling CNBC last year that he did not believe carbon dioxide was a primary contributor to climate change. Last week, he told the Christian broadcaster CBN News that he supports developing the nation's energy resources, a stance that he believes aligns with Scripture's teachings.

"The biblical worldview with respect to these issues is that we have a responsibility to manage and cultivate, harvest the natural resources that we've been blessed with to truly bless our fellow mankind," he said.

Pruitt isn't the first EPA administrator to openly express his or her religious faith, of course. His immediate predecessor, Gina McCarthy, was a Roman Catholic who visited top officials at the Vatican in 2015 as church officials worked to write Pope Francis' climate change encyclical. She oversaw the creation of the major climate change and water regulations that Pruitt's EPA has started to unwind.

Katharine Hayhoe, an evangelical Christian and climate scientist, said the evidence of climate change does not conflict with the teachings of the Bible — so anyone who rejects the science is making more of a cultural or political decision than a faith-based one.

"I think you probably could run Boeing if you thought gravity was optional, as long as you were willing to let people who didn't think it was optional actually do the design of the plane," Hayhoe said. "Here's the thing: If we think it is optional to agree that the planet is warming, humans are responsible and the impacts are serious ... we will be making decisions that are not based in reality."

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2018/03/01/under-pressure-from-senate-democrats-epa-restores-funding-for-the-bay-journal/?utm_term=.563de0d35896

Under pressure from Senate Democrats, EPA restores funding for the Bay Journal

By Juliet Eilperin and Dino Grandoni, 3/1/18

The Environmental Protection Agency agreed Thursday to restore \$325,000 in funding this year for the Bay Journal, a publication with a print circulation of 50,000 that has covered environmental issues involving the Chesapeake Bay for more than a quarter-century.

A Trump political appointee who started signing off on each EPA grant last year, public affairs official John Konkus, made the decision in August to cut off funding for the paper. The federal money accounts for roughly a third of the Bay Journal's budget. The publication challenged the move in an appeal directly to the agency, arguing the EPA had violated the terms of its cooperative agreement, and Maryland's two senators, Benjamin L. Cardin and Chris Van Hollen, both Democrats, repeatedly pressed EPA Administrator Scott Pruitt in private and in public to reinstate the funds.

On Thursday, Kerry Neal, deputy director of the EPA's Office of Grants and Debarment, told attorneys for the Bay Journal that the grant would be restored. "This renders the appeal moot," he wrote in a letter to the newspaper's lawyers.

"It's been a big distraction," said Karl Blankenship, editor of the Bay Journal. "It's going to be nice to get this behind us."

Blankenship added he was "actually pleasantly surprised at the way that Senators Ben Cardin and Chris Van Hollen took up the cause. I actually didn't think that our grant would rise to that type of a level. I was actually frankly amazed."

In a joint statement, Cardin and Van Hollen hailed the move as a step toward restoring faith in the federal government's ability to uphold its commitments.

"I was deeply troubled when the EPA announced its intent to revoke its commitment to the Bay Journal only one year into a five-year agreement," Cardin said, "in part because of the dangerous precedent that such a move could set for important projects and programs nationwide. Our federal government must be a consistent, reliable partner if it is ever to be fully effective."

Van Hollen, who sits on the Interior Appropriations subcommittee as well as the EPA's authorizing committee, said, "We made our concerns clear to ... Pruitt, and I appreciate that he heard them."

The EPA is obligated under the Clean Air Act to publicize its efforts to clean up the Chesapeake Bay, and for years it has used the Bay Journal as a way of doing that. Last year, however, the publication began running articles criticizing the new administration for proposing deep cuts to the cleanup program. Nick DiPasquale, who retired as head of the EPA's Chesapeake Bay program in January, has said that Konkus mentioned the critical coverage in a phone call focused on the fate of the Journal's grant.

During a hearing of the Senate Environment and Public Works Committee in late January, Van Hollen asked Pruitt whether "it was politics that killed the funding." Pruitt replied, "The contract is under reconsideration, and we are taking steps to address it ... and we will deal with it fairly."

Asked to elaborate Thursday on the decision to restore the grant, EPA spokeswoman Liz Bowman pointed to Pruitt's remarks during the hearing.

Advocates for the environmental restoration of the Chesapeake Bay said they welcomed the news.

"I get about half my information about the bay from the Bay Journal," said Tom Pelton, who hosts a radio show on Baltimore's WYPR about environmental issues in Maryland. "This is victory for honest and good reporting."

In the months after the EPA told the paper it would terminate the grant, the Bay Journal lost two reporters as the newspaper's leaders began searching for alternative sources of revenue and considering ways of running the publication with less money.

Neal, the EPA grant official, told the Bay Journal he was ready to uphold the decision to terminate the grant. "However, the Agency's management has informed me of a second change in priorities."

In the months leading up to the grant termination last year, the Bay Journal published a story scrutinizing the "wide and deep swath" it said the White House's proposed budget would cut in Chesapeake Bay-related environmental initiatives.

Democracy Forward, a left-leaning legal and policy shop founded last year in response to the Trump administration's deregulation agenda, represented the Bay Journal in its appeal to the EPA.

Donald Boesch, a marine scientist at the University of Maryland and president of the school's Center for Environmental Science, said the bay has gotten cleaner since the implementation of the Clean Water Act. "Oxygen conditions are improving, waters are becoming clearer, and underwater grasses and other marine life are returning," he said.

In 2010, the Obama administration set strict limits on the amount of nitrogen, phosphorus and sediment states could put into the 64,000-square-mile watershed as part of a "pollution diet" for the bay.

The amount of federal money that will be available for restoring the bay after years of industrial and agricultural pollution, however, remains in doubt. For two years in a row, the Trump administration has proposed drastically cutting funding to the EPA's Chesapeake Bay Program, a regional partnership between the federal government and states within the bay's watershed.

Those cuts have not been implemented so far, since Congress has kept the government operation at the same level it was funded in fiscal year 2016. GOP leaders will have more discretion in the months ahead, now that the two parties have reached a budget deal and will return to the normal appropriations process.

"Certainly, the Bay Journal deserves to have its contract upheld," said Will Baker, president of the Chesapeake Bay Foundation. But he added, "it's a minor victory compared to the attempt to dismantle the federal Clean Air Act and Clean Water Act."

The Hill

<http://thehill.com/policy/energy-environment/376424-epa-restores-funding-to-chesapeake-bay-newspaper>

EPA restores funding to Chesapeake Bay newspaper

By Timothy Cama, 3/2/18, 10:07 AM

The Environmental Protection Agency (EPA) has reversed its controversial decision to cut off grant funding for a small newspaper that covers the Chesapeake Bay.

Kerry Neal, deputy director of the EPA's Office of Grants and Debarment, told the Bay Journal's attorneys Thursday that agency management had instructed that the grant be restored.

John Konkus, a political appointee in the EPA's public affairs office, had in August ordered that the \$325,000 annual grant be cut off, as part of a wide-ranging Trump administration review of EPA grants.

The Bay Journal, a nonprofit, relies on its EPA grant for about a third of its funding. It was only one year into the five-year grant.

The former head of the EPA's Chesapeake Bay Program told E&E News that Konkus's decision was political, based in part on his perception of public distrust in media and the Bay Journal's negative coverage of Trump administration decisions.

The Bay Journal had appealed Konkus's decision.

Maryland's Senate delegation cheered the Thursday reversal.

"The Bay Journal is a unique, highly trusted publication that serves an essential function in the Chesapeake Bay restoration effort. While I do not believe its funding should ever have been threatened, I appreciate the EPA's willingness to re-evaluate its decision and correct its course," said Sen. Ben Cardin (D-Md.).

"Today's move by the EPA reverses a misguided decision to revoke funding for an institution that has helped contribute to the health and success of the Chesapeake Bay," said Sen. Chris Van Hollen (D-Md.).

The Bay Journal's coverage focuses on the environment of the Chesapeake Bay and its ongoing cleanup, a program overseen by the EPA but one that the Trump administration wants to cut dramatically.

EPA Administrator Scott Pruitt told senators in January that the agency was considering restoring funding. He said he did not know about the decision to cut off the grant until after it had been made.

The Washington Post first reported on the restoration news.

E&E Greenwire

<https://www.eenews.net/greenwire/stories/1060075287/search?keyword=EPA>

EPA restores funding to Md. newspaper

By Ariel Wittenberg, 3/2/18

U.S. EPA has restored funding to a newspaper covering the Chesapeake Bay following mounting pressure from Maryland lawmakers.

Office of Grants and Debarment Deputy Director Kerry Neal wrote in a letter to the Bay Journal yesterday that the agency would restore its \$325,000 grant for this year.

EPA cut the six-year grant, worth up to \$1.95 million, without warning in August, citing a "change in priorities." The Journal had been appealing that decision.

Neal, who had been arbitrating the appeal, wrote that he had been planning to uphold EPA's decision to cut funding. "However, the Agency's management has informed me of a second change in priorities," he added.

Reinstating the funding, he wrote, "renders this appeal moot."

Josephine Morse, senior counsel at the group Democracy Forward, who represented the Journal in its appeal, said the decision is a "victory for the free press and the First Amendment."

She said, "We are proud to have succeeded in this fight for Bay Journal to participate in EPA's grants process free from political interference."

Morse added that the decision will allow Journal staff to "get back to the work they've been doing for decades, covering the bay."

Journal editor Karl Blankenship said he had been pleasantly "surprised" by the outpouring of support the newspaper had received from the public and lawmakers following EPA's initial decision to cut the grant.

"People were sticking up for us, and that speaks to the credibility of our work," he said.

EPA did not respond to questions about why the agency again shifted its priorities and decided to fund the newspaper.

The decision follows reporting by E&E News in January that Trump political appointees had decided to eliminate Journal funding after agency leaders questioned American trust in the media (Greenwire, Jan. 4).

Then, the recently departed head of EPA's Chesapeake Bay cleanup program told E&E News that the decision, made by Associate Administrator for Public Affairs John Konkus, had been "totally ideologically driven."

Maryland Sens. Ben Cardin (D) and Chris Van Hollen (D) cited that reporting during an Senate Environment and Public Works Committee hearing (Greenwire, Jan. 30).

Van Hollen told EPA Administrator Scott Pruitt, "We should have never gotten to this point, where EPA is making politically driven decisions on contracts."

At the time, Pruitt told the senators, "The decision should not have been made the way it was, so it is already under reconsideration."

Cardin followed up two weeks ago, meeting privately with Pruitt to discuss Bay Journal funding and funding for the bay cleanup program (E&E News PM, Feb. 15).

Reps. John Sarbanes (D-Md.) and Frank Pallone (D-N.J.), the ranking member on the House Energy and Commerce Committee, also sent separate letters to EPA in January decrying the slashed funding.

Cardin and Van Hollen celebrated EPA's reversal today.

"The Bay Journal is a unique, highly trusted publication that serves an essential function in the Chesapeake Bay restoration effort. While I do not believe its funding should ever have been threatened, I appreciate the EPA's willingness to re-evaluate its decision and correct its course," Cardin said in a statement.

Van Hollen agreed.

"We made our concerns clear to EPA Director Pruitt, and I appreciate that he heard them," he said. "The Bay Journal has done outstanding work for years, and I look forward to that work continuing for years to come."

AP

<https://apnews.com/cf2a6a09bfe3455cb40bc5ed858345ae/Trump-picks-Dow-Chemical-lawyer-for-key-role-at-EPA>

Trump picks Dow Chemical lawyer for key role at EPA

By Michael Biesecker, 3/3/18

WASHINGTON (AP) — President Donald Trump on Friday tapped a chemical industry insider to run the Environmental Protection Agency office that oversees emergency response to hazardous spills and cleanups of the nation's most toxic sites.

The White House announced that Trump has nominated Peter C. Wright to serve as EPA's assistant administrator for Land and Emergency Management. Wright has worked as a corporate lawyer at Dow Chemical Co. since 1999.

Despite Trump's campaign pledges to "drain the swamp" in Washington, Wright's nomination is the latest example of the president appointing corporate lawyers or lobbyists to supervise federal offices that directly regulate their former employers.

EPA Administrator Scott Pruitt said Wright is "exceptionally qualified" to lead the Office of Land and Emergency Management.

"He has the expertise and experience necessary to implement our ambitious goals for cleaning up the nation's contaminated lands quickly and thoroughly," Pruitt said.

If confirmed by the Senate, Wright would oversee the EPA office that responds to such large-scale national emergencies as oil spills and unauthorized releases of chemicals or radioactive materials. Wright would also oversee the Superfund hazardous waste cleanup program.

Dow merged with rival DuPont last year, creating the world's largest chemical maker. The companies are also financially responsible for cleaning up toxic sites where they caused pollution.

At Dow, Wright has served as managing counsel for environmental health and safety, as well as the company's principle counsel for mergers and acquisitions. Wright also advised Dow on Superfund cleanups.

An analysis of EPA data by The Associated Press shows Dow and DuPont are listed as responsible parties for more than 100 of the toxic sites currently undergoing or slated for cleanup across the nation.

Dow also provided a \$1 million check to Trump's inaugural committee.

Asked about the potential for conflicts of interest, EPA spokeswoman Liz Bowman said Wright would meet with EPA's ethics office to discuss his new role.

Reuters

<https://www.reuters.com/article/us-usa-epa-superfund/trump-nominates-dow-chemicals-lawyer-to-oversee-epa-toxic-waste-program-idUSKCN1GE2ZX>

Trump nominates Dow Chemicals lawyer to oversee EPA toxic waste program

By Valerie Volcovici, 3/2/18, 5:20 PM

WASHINGTON (Reuters) - U.S. President Donald Trump on Friday nominated a Dow Chemicals lawyer to head-up an Environmental Protection Agency unit that oversees hazardous waste disposal and chemical spills from toxic "Superfund" sites.

Trump named Peter Wright as assistant administrator for the Office of Land and Emergency Management (OLEM). Wright served as Dow's managing counsel for environmental health and safety and provided the company legal support for Superfund and other remediation sites, according to the EPA.

"He has the expertise and experience necessary to implement our ambitious goals for cleaning up the nation's contaminated lands quickly and thoroughly," EPA Administrator Scott Pruitt said in a press release.

Pruitt has said that cleaning up Superfund sites would be a priority for the agency.

As head of OLEM, Wright would oversee the development of guidelines for the land disposal of hazardous waste and underground storage tanks and respond to abandoned and active hazardous waste sites, as well as accidental chemical releases through the Superfund program.

Dow Chemicals facilities are involved in dozens of Superfund projects.

Dow had accrued \$219 million in accrued obligations for remediating Superfund sites, according to the company's fourth quarter 2017 10-K filing.

Overall, Dow had accrued \$1.3 billion in "probable environmental remediation and restoration costs," according to the 10-K.

The EPA's relationship with Dow had been under scrutiny after Pruitt last year announced the agency would decline to ban the pesticide chlorpyrifos, a chemical that EPA scientists and the American Academy of Pediatrics wanted to ban because of the risk it said it posed to children and farm workers.

Chlorpyrifos, produced by a variety of manufacturers, including a subsidiary of Dow Chemical.

The Hill

<http://thehill.com/policy/energy-environment/376505-trump-taps-chemical-company-lawyer-to-lead-epa-superfund-office>

Trump taps chemical company lawyer to lead EPA Superfund office

By Timothy Cama, 3/2/18, 4:39 PM

President Trump is nominating a senior attorney at Dow Chemical Co. to lead the Environmental Protection Agency's (EPA) office responsible for highly contaminated Superfund sites.

Peter Wright would lead the EPA's Office of Land and Emergency Management if confirmed by the Senate, the White House announced Friday.

The office's responsibilities include the Superfund program, the brownfield program for redeveloping sites, emergency response operations, landfill regulation and underground storage tanks.

"Peter is exceptionally qualified to lead the Office of Land and Emergency Management," EPA Administrator Scott Pruitt said in a statement. "He has the expertise and experience necessary to implement our ambitious goals for cleaning up the nation's contaminated lands quickly and thoroughly."

Pruitt has made the Superfund program a priority for his time at the EPA. The agency currently has more than 1,300 sites on its priority list, and Pruitt has accused the Obama administration of not doing enough to clean them up.

If confirmed, Wright would potentially be overseeing sites that Dow is responsible for cleaning up. The EPA has identified contaminated sites in California, Michigan and elsewhere as places that Dow is potentially responsible for.

Ethics guidelines may require Wright to recuse himself from matters relating to Dow, which merged last year with DuPont Co.

Politico

<https://www.politicopro.com/energy/whiteboard/2018/03/trump-picks-dow-attorney-to-run-epa-land-office-727912>

Trump picks Dow attorney to run EPA land office

By Alex Guillen and Darius Dixon, 3/2/18, 4:14 PM

President Donald Trump plans to nominate a Dow Chemical executive to run EPA's Office of Land and Emergency Management, the office that oversees Superfund, the White House announced today.

Peter Wright is a managing counsel with Dow's legal department in Midland, Mich., and has been with the company since 1999. Prior to Dow, Wright worked at several law firms as well as the agriculture giant Monsanto.

In a statement, EPA Administrator Scott Pruitt called Wright "exceptionally qualified," adding that "[h]e has the expertise and experience necessary to implement our ambitious goals for cleaning up the nation's contaminated lands quickly and thoroughly."

Dow is responsible, in full or in part, for several Superfund sites, according to EPA, including a chemical plant in Midland that released dioxins into the Tittabawassee and Saginaw rivers; the Mystery Bridge Road site near Casper, Wyo.; and Del Amo, a former synthetic rubber production plant in Los Angeles. Dow also manufactures the pesticide chlorpyrifos. Pruitt last year decided against banning the substance.

Aside from Superfund, OLEM oversees brownfields cleanups, disposal of wastes like coal ash and underground storage tanks. It also houses emergency response services.

The White House also announced that it plans to nominate James Edward Campos to be the director of the Energy Department's office of economic impact and diversity. Campos is a board member of the Nevada Taxicab Authority and, according to the White House, a senior adviser to the president of Nevada State College and former commissioner of the state's consumer advocate office.

E&E News PM

<https://www.eenews.net/eenewspm/stories/1060075323/search?keyword=EPA>

Trump taps Dow official to oversee EPA waste program

By Corbin Hiar, 3/2/18

President Trump today nominated a top chemical company official to oversee U.S. EPA's solid waste office.

Peter Wright is managing counsel at the Dow Chemical Co. If the Senate confirms him as assistant administrator for land and emergency management, he will oversee waste disposal and cleanup efforts like the Superfund program, which is a top priority for EPA Administrator Scott Pruitt.

Some of the nation's more than 1,340 Superfund sites were created by Dow or its subsidiaries, which could force Wright to recuse himself from weighing in on those cleanups. For example, Dow's industrial facilities have been linked to sites in Los Angeles, Michigan and Wyoming.

Before joining Dow in 1999, Wright worked at the law firm Bryan Cave LLP and Monsanto Co., an agrichemical giant. He began his legal career with the environmental practice group of the firm Baker & Daniels, which is now part of Faegre Baker Daniels LLP.

He graduated summa cum laude from Indiana University's law school in 1986 and summa cum laude from Wabash College in 1981.

"Peter is exceptionally qualified to lead the Office of Land and Emergency Management," Pruitt said in a statement. "He has the expertise and experience necessary to implement our ambitious goals for cleaning up the nation's contaminated lands quickly and thoroughly."

Energy Department pick

Trump also nominated James Campos to lead the Department of Energy's Office of Economic Impact and Diversity, which advises the Energy secretary on the effects of energy programs on minority communities.

Campos is currently a senior adviser to the president of Nevada State College and a board member of the Nevada Taxicab Authority. He also has held positions leading renewable energy initiatives for the College of Southern Nevada and as a commissioner for the Nevada Consumer Affairs Division.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2018/03/01/epa-moves-to-overhaul-obama-era-safeguards-on-coal-ash-waste/?utm_term=.e92df47d3f02

EPA moves to overhaul Obama-era safeguards on coal ash waste

By Brady Dennis and Juliet Eilperin, 3/2/18

The Environmental Protection Agency proposed major changes Thursday to an Obama-era initiative regulating coal ash waste, giving states and utilities more latitude in how they dispose of the toxic substance.

The proposal marks a major policy shift with ramifications for both the coal industry and communities across the country. It includes more than a dozen suggested changes for how coal ash — which has contaminated waterways in two high-profile spills during the past decade — is stored at more than 400 coal-fired power plants around the country. And in modeling the rule on 1991 standards for disposal of household trash in solid waste landfills, it would extend how long companies can maintain unlined coal ash ponds and let states alter how frequently they would test for groundwater contamination.

EPA Administrator Scott Pruitt said in a statement that the changes, which are estimated to save companies between \$32 million and \$100 million in annual compliance costs, underscore the administration's commitment to federalism.

"Today's coal ash proposal embodies EPA's commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states," Pruitt said.

Federal regulators have long wrestled with how to address coal ash, the substance that remains when coal is burned in power plants to generate electricity. Containing a toxic mix of mercury, cadmium, arsenic and other heavy metals, coal ash can pollute waterways, poison wildlife and cause respiratory illness among people living near the massive pits in which plant operators store the waste.

After extensive negotiations with utilities, other affected industries and environmentalists, the Obama administration finalized regulations in 2015 that imposed new standards on coal-ash disposal sites, in part by increasing inspections and monitoring and requiring measures such as liners in new waste pits to prevent leaks that might threaten nearby drinking water supplies. The rules did not classify coal ash as a hazardous substance, which could have led to stricter requirements and made its recycling, to make concrete, gypsum wallboard and pavement, more difficult.

But last spring, shortly after the Trump administration took office, industry officials began lobbying the EPA to revisit the rules. They wrote that the existing regulation "is causing significant adverse impacts on coal-fired [power] generation in this country due to the excessive costs of compliance."

Pruitt seemed sympathetic, saying in September that it was "appropriate and in the public interest" for the agency to rethink the regulations.

Quin Shea, the vice president for environment at the industry trade group Edison Electric Institute, praised Pruitt's latest decision.

"The proposed rule will provide states and the industry with greater certainty as they work to close ash basins safely and responsibly and continue to manage other ash management facilities such as landfills," Shea said in a statement.

The EPA said Thursday that it will accept public comment on its proposal for 45 days after publication in the Federal Register, as well as hold a hearing on the potential changes. It then "plans to move quickly to take final action after the close of the comment period."

Environmental groups criticized Pruitt's actions as yet another giveaway to industry.

Frank Holleman, a senior lawyer at the Southern Environmental Law Center, said in a statement that the changes the EPA has outlined would allow companies to circumvent the protections provided under the original rule.

"Coal ash is polluting rivers, lakes and wells across America, but President Trump's EPA is trying to weaken the standards that are supposed to protect Americans from this toxic threat," Holleman said. "These proposals will weaken rules that

protect our groundwater from arsenic and mercury and continue to extend the use of unlined, leaking coal ash pits next to our waterways. America's families and clean water deserve better."

Lisa Evans, a senior attorney at Earthjustice, said in an interview Friday that the original rule had established "black-and-white requirements. Pruitt is turning it all gray."

She noted that the proposal, which includes a lengthy preamble suggesting the agency might loosen restrictions much further when it finalizes the rule, leaves open the possibility of letting utilities determine when the groundwater should be tested. That would allow state regulators, rather than a technical expert, to make several determinations, she added, including whether a pit closure can be postponed due to a lack of storage capacity elsewhere and what sort of groundwater monitoring should take place once a pit is closed.

"This rule potentially turns over the reins to the polluter," Evans said.

Environmental advocates said the significance of the changes was underscored on Friday, when utilities faced a deadline under the existing rule to report monitoring data for groundwater pollution at unlined coal ash lagoons. Without those requirements, Holleman said, residents in communities around the country would remain in the dark about potential risks to their drinking water.

"Toxic pollution that exceeds limits would require utilities to stop their coal ash pollution and restore our water resources to natural conditions," he said. "But, giving a favor to industry lobbyists, the Trump administration ... wants to weaken this provision and protect the polluters instead of the people and clean water."

The short comment period, coupled with the fact that EPA has raised the prospect of additional changes, makes it harder for administration critics to raise objections that could be grounds to challenge any final agency decision in court, she added.

While there have been dozens of minor coal ash spills in recent years, two accidents wreaked havoc in the South. In February 2014, an underground pipe burst at a Duke Energy steam station in North Carolina, spilling tens of thousands of tons of coal ash into the Dan River. According to the EPA, the waste contained a long list of various metals, including arsenic, copper, lead and mercury.

The spill covered more than 70 miles of the river, home to two types of endangered species. The Dan is used by livestock and for crop irrigation and is a popular spot for fishing, kayaking and canoeing. In addition, the river is a source of drinking water for residents in North Carolina and Virginia.

State regulators eventually fined Duke more than \$6 million, and legislators required the utility to close all of its existing coal ash storage ponds by 2029. The EPA also entered into a \$3 million cleanup agreement with the company, which required Duke to remove coal ash deposits along the river.

In 2008, a dike failure at the Tennessee Valley Authority's Kingston Fossil Plant released 5.4 million cubic yards of coal ash, sending much of it barreling into the Emory River and smothering several hundred acres of land.

A wave of sludge mowed down trees, destroyed power lines and damaged numerous homes, leaving several of them uninhabitable. The episode remains one of the largest coal ash spills in U.S. history, and TVA has spent more than \$1 billion on cleanup efforts.

The Hill

<http://thehill.com/policy/energy-environment/376359-new-epa-rule-gives-states-power-to-determine-coal-ash-disposal>

New EPA rule gives states power to determine coal ash disposal

By Miranda Green, 3/1/18, 6:15 PM

The Trump administration announced a new Environmental Protection Agency (EPA) rule Thursday aimed at giving states the independence to determine how to best dispose of coal ash, the toxic metal left from burning coal.

The EPA said that the deregulations would save utilities nearly \$100 million per year in compliance costs and the regulated community between \$31 million and \$100 million per year.

"Today's coal ash proposal embodies EPA's commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states," EPA Administrator Scott Pruitt said in a statement.

"We are also providing clarification and an opportunity for public comment — something that is much-needed following the public reaction to the 2015 coal ash rule."

More than 110 million tons of coal ash are produced annually by coal-fired power plants, according to the EPA.

The move is a sharp departure from the Obama administration, which sought to better regulate disposal of the toxic metal.

In 2015, following a number of coal ash leaks that led to severely clogged waterways, the Obama administration proposed regulations that would increase inspections and monitoring as well as impose new requirements for storage liners. They would have also required companies to conduct water quality tests.

The rule met significant opposition from utility industry groups and were never implemented. Litigation against the regulations remains pending.

Pruitt announced in September that the Trump administration would be reconsidering the rule.

"It is important that we give the existing rule a hard look and consider improvements that may help states tailor their permit programs to the needs of their states in a way that provides greater regulatory certainty, while also ensuring that human health and the environment remain protected," Pruitt said at the time.

EPA said Thursday the rule is one of two it plans to enact to amend coal ash disposal.

Reuters

<https://www.reuters.com/article/us-usa-epa-coal/epa-proposes-changes-to-coal-ash-regulations-idUSKCN1GE09E>

EPA proposes changes to coal ash regulations

3/1/18, 9:43 PM

WASHINGTON (Reuters) - The U.S. Environmental Protection Agency on Thursday proposed changes to rules regulating coal ash waste from power plants that it said would give states more flexibility over its disposal and save electric utilities up to \$100 million a year in compliance costs.

The proposal includes more than a dozen changes to an Obama-era rule that established minimum national standards for the disposal of coal ash, a byproduct of coal-based power plants that contains toxic materials such as arsenic and lead.

“Today’s coal ash proposal embodies EPA’s commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states,” EPA Administrator Scott Pruitt said in a statement.

In September, the EPA said it would reconsider the Obama-era rule after utility industry groups petitioned for changes.

Environmental groups warned in September that if the EPA rolled back the safeguards, it would put the public at risk because coal ash pits are located near waterways and groundwater.

The agency said it would be accepting public comment on the proposal for 45 days and planned to hold a public hearing.

AP

<https://apnews.com/f3c75ee69bd7485590d467d76d766dfc/US-utilities-find-water-pollution-at-coal-ash-dumps>

US utilities find water pollution at coal ash dumps

By Matthew Brown and Sarah Rankin, 3/3/18

BILLINGS, Mont. (AP) — Major utilities have found evidence of groundwater contamination at coal-burning power plants across the U.S. where landfills and man-made ponds have been used for decades as dumping grounds for coal ash, according to data released by plant owners under a Friday deadline.

Heightened levels of pollutants — including arsenic and radium in some cases — were documented at plants in numerous states, from Virginia to Alaska.

The Environmental Protection Agency required the plant owners to install test wells to monitor groundwater pollution as a first step toward cleaning up the sites.

The future of that effort was cast into uncertainty Thursday when the Trump administration announced it intends to roll back aspects of the program to reduce the industry’s compliance costs by up to \$100 million annually.

“There’s no dispute that the underlying groundwater is being contaminated. We see that clearly,” said Duke University professor Avner Vengosh, who researches the effects of coal ash and has reviewed some of the new data. “The real question is whether it’s migrating toward people or wells next to (coal plants).”

Vengosh added that the discovery at some sites of radium at levels far exceeding drinking water standards — which can increase the risk of cancer — were of particular concern. It appears to mark the first time coal ash has been associated with radioactivity in groundwater, he said.

Duke Energy spokeswoman Erin Culbert noted that government-sponsored research has shown most coal ash does not have radioactive elements. She said the elevated radium levels reported at some Duke plants reflected raw data that had not been analyzed to determine if the contamination was naturally occurring or came from another source.

The Associated Press conducted an initial review of the reports, which were still being filed Friday, and spoke with power company executives across the country, who warned against misinterpreting the pollution data.

Generally, they said further studies were needed to confirm the ash storage sites as the source of the contamination and whether public drinking water supplies were threatened.

U.S. coal plants produce about 100 million tons annually of ash and other waste, much of which ends up in unlined disposal ponds prone to leak. Some have been in use for decades.

Among large U.S. utilities, Duke Energy reported preliminary findings of contamination of groundwater at 48 ash basins and landfills. American Electric Power, or AEP, reported potential groundwater impacts at 24 ash disposal sites. Dominion Energy, the Tennessee Valley Authority, Xcel Energy and others also reported evidence of contamination.

Mark McCullough, executive vice president at AEP, said the company needed more data to decide which sites will need to close.

“These (monitoring) wells that are close to the sites are telling us something, and we are committed to doing the hard work and to understand where the real source is and what it is,” McCullough said.

Pam Faggert, the chief environmental officer for Richmond, Virginia-based Dominion, said the company also conducts surface water tests near its facilities and was confident that the groundwater impacts were not having an effect on public drinking water or public safety offsite.

Coal ash storage and disposal went largely unregulated until a 2008 spill at a Tennessee Valley Authority power plant in Kingston, Tennessee. A containment dike burst and flooding covered more than 300 acres (121 million hectares), dumped waste into two nearby rivers, destroyed homes and brought national attention to the issue.

In 2014, an estimated 39,000 tons of coal ash spewed into the Dan River after a drainage pipe running below a waste dump collapsed at a Duke Energy plant in Eden, North Carolina. The toxic sludge turned the river gray for more than 70 miles (112 kilometers).

Apart from spills, other ash problems have been documented across the country.

On Friday, Alabama regulators proposed \$1.5 million in fines for coal ash pollution from six power plants in violation of clean water laws. Five of the plants are owned by Alabama Power, a subsidiary of Southern Company.

In Montana, an estimated 200 million gallons (757 million liters) of contaminated water a year have been leaking into the groundwater from ash ponds in the city of Colstrip, leaving the water undrinkable. And in Virginia, Dominion has offered to hook some neighbors of the Possum Point Power Station up to municipal water after groundwater testing found elevated levels of some contaminants.

Attorney Lisa Evans with the environmental law firm Earthjustice said the pollution reports underscore the need for strong rules on cleaning ash disposal sites, even as the Trump administration appears to be heading in the opposite direction.

“This data shows what communities have been concerned about: Coal ash landfills and impoundments are leaking,” Evans said, adding that Thursday’s proposal could lead to the “evisceration” of current regulations.

Another environmental attorney, Frank Holleman with the Southern Environmental Law Center, pushed back against the utilities’ argument that the data so far has been largely indicative of on-site contamination, not a broader public health threat. He said groundwater doesn’t stay in one place — it moves and flows.

Remediation work at some coal ash disposal areas already is underway.

AEP has closed six ash storage sites to date, the company said. Duke Energy has started excavation work at 11 sites and had spent \$1.4 billion on such efforts through last December, the company disclosed last week. It plans to spend another \$2.5 billion on ash site closures over the next five years.

EPA rule gives states more power to manage toxic coal ash

By Josh Siegel, 3/1/18, 5:08 PM

The Environmental Protection Agency proposed a new rule Thursday that will give states and utilities more leeway in how they dispose and manage toxic coal ash waste.

Coal ash is the waste left over from burning coal for electricity production. The waste is typically stored in large containment ponds. But after some large coal ash spills, the Obama administration in 2015 wrote regulations to better contain the waste.

Utility operators produce more than 110 million tons of coal ash annually, according to the EPA.

The Obama-era rule imposed new standards on coal ash disposal sites by increasing inspection and monitoring levels, and requiring power plants to install liners in new waste pits to prevent leaking that could threaten nearby drinking water supplies. Companies also had to conduct water quality tests.

Utility industry groups petitioned to change the rule, arguing it was too costly for power plants.

In September, EPA Administrator Scott Pruitt announced he would reconsider the Obama rule. The 2015 rule was never implemented, and litigation against it still pending in court.

"It is important that we give the existing rule a hard look and consider improvements that may help states tailor their permit programs to the needs of their states, in a way that provides greater regulatory certainty, while also ensuring that human health and the environment remain protected," Pruitt said at the time.

Pruitt said Thursday his proposed revision of the rule would save companies between \$31 million and \$100 million per year. It would allow states to come up with their own plans on how to respond to coal ash spills.

"Today's coal ash proposal embodies EPA's commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states," Pruitt said. "We are also providing clarification and an opportunity for public comment – something that is much-needed following the public reaction to the 2015 coal ash rule."

EPA will be accepting public comment on the proposal for 45 days after publication in the Federal Register and plans to hold a public hearing.

E&E Greenwire

<https://www.eenews.net/greenwire/stories/1060075313/search?keyword=EPA>

EPA moving to change its landmark disposal rule

By Sean Reilly, 3/2/18

U.S. EPA is pressing ahead with a first round of proposed changes to its landmark 2015 coal ash regulations, a move quickly embraced by the utility industry and slammed by environmental groups.

The proposals, contained in a lengthy draft rule released late yesterday, would open the door for states to create "alternative requirements" to deal with releases of contaminants from coal ash ponds and landfills, according to an EPA summary.

The draft also seeks public comment on whether existing deadlines for groundwater monitoring and analysis "remain appropriate in light of new legal authorities and potential regulatory changes," as well as the possibility of changing current location restrictions on coal ash disposal sites in some areas.

Utilities have argued that they need more leeway from the "one-size-fits-all" federal regulations after a 2016 law gave states the option of creating their own coal ash permitting programs as long as the resulting standards are as protective as federal mandates (Greenwire, July 14, 2017).

While relatively few states have so far shown interest in shouldering that responsibility, it's a view endorsed by EPA Administrator Scott Pruitt.

The proposal released yesterday "embodies EPA's commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states," Pruitt said in a news release.

But in an interview this morning, Earthjustice attorney Lisa Evans said the draft would "make significant rollbacks to the core protections" of the 2015 regulations. The proposal, she said, suggests "that utilities could have the same sort of discretion as state regulators" to waive critical requirements.

Evans also scoffed at EPA's forecast that the proposed changes, numbering more than a dozen in all, could save utilities up to \$100 million in compliance costs.

"What is \$100 million to this industry?" she asked. "It seems absurd to be even talking about it."

Coal ash, the residue generated by coal-fired power plants, amounts to one of the nation's largest waste streams. While the 2015 regulations, published after more than four years of work, classified it as non-hazardous, EPA acknowledged that lead, arsenic and other toxics had leached out of storage ponds and landfills at "levels of concern."

In response to industry requests, EPA had signaled plans late last year to revisit a total of 16 provisions in those regulations. The draft rule released yesterday will be the first of two, the agency said yesterday, with a "phase 2 proposal" coming by September.

Today is the deadline for utilities to report groundwater testing results for their active coal ash ponds. Based on the data released at coal ash sites for just 14 power plants, nine reported "statistically significant increases" of substances such as arsenic, antimony and boron, Earthjustice said in a news release early last month.

At least some utilities are already fretting about potentially daunting liabilities. In a report to shareholders last year, for example, Houston-based Dynegy Inc. warned that it could incur "significant costs" if groundwater remediation is needed at any of its coal ash disposal sites (Greenwire, Jan. 31).

Those costs "could have a material adverse effect on our financial condition, results of operations and cash flows," the report added.

In a statement yesterday, the top environmental official at the Edison Electric Institute, a trade group for investor-owned utilities, cautioned that the groundwater reports "contain initial data, and it is premature to use these results to predict any impacts to drinking water or public safety." That information "must now must be analyzed and assessed further," Quin Shea said.

Shea, the institute's vice president for environment, also welcomed the proposed rule released yesterday, saying it would "incorporate site-specific tailoring of the groundwater monitoring and corrective action requirements" of the original 2015 regulations.

Under that rule, the main enforcement mechanism is citizen lawsuits. The new proposal, Shea added, recognized that Congress "fundamentally changed" the regulations' implementation mechanism with the passage of the 2016 law, known as the Water Infrastructure Improvements for the Nation (WIIN) Act.

Jim Roewer, executive director of the Utility Solid Waste Activities Group, a coalition that has been the industry's leading voice on coal ash regulation, could not be reached for comment this morning.

EPA had sent the proposed rule to the White House Office of Management and Budget for a standard review in late December, according to the Reginfo.gov site (E&ENews PM, Dec. 22, 2017). OMB's Office of Information and Regulatory Affairs returned the draft to the agency yesterday and Pruitt signed it soon after. The proposal will have a 45-day public comment period when published in the Federal Register.

E&E Greenwire

<https://www.eenews.net/greenwire/stories/1060075307/search?keyword=EPA>

'Security component' to not releasing calendar — Pruitt

By Kevin Bogardus, 3/2/18

U.S. EPA Administrator Scott Pruitt said security concerns play into why the agency doesn't release his daily public schedule.

"Yes, there's a security component to it," Pruitt said, according to an excerpt of an interview with CBS News. "I'm sure it's one of the reasons, yes. I'm sure it's one of the reasons."

The full interview on CBS's podcast "The Takeout" went live today.

Pruitt noted EPA does disclose his public calendar, although it is updated every two weeks rather than every day. The agency posts calendars for Pruitt and other senior officials on its website (Greenwire, Feb. 2).

Past EPA administrators typically released their public calendars every day. Pressed on that agency tradition of "public transparency," Pruitt again cited security concerns.

"It is part of public transparency, and we do disclose it. We just don't disclose it in a way that is contemporaneous to or in advance of where we are traveling, largely, I'm sure, because of these kinds of concerns," Pruitt said.

"I mean, I wish it weren't this way. Look, we live in a highly charged environment — political and otherwise," he said. "It's toxic in many ways around a host of issues, particularly when you deal with issues of passion like the environment."

EPA has also been reluctant to release under the Freedom of Information Act Pruitt's private calendar, which provides more information than the public version, often including names of attendees and discussion topics for the EPA chief's meetings.

EPA released a copy of Pruitt's private schedule running from February to March 2017 in response to a FOIA request from E&E News last year (Greenwire, June 15, 2017). The agency, however, has still not provided private calendar records for the following months under subsequent requests by E&E News.

American Oversight, a liberal-leaning watchdog group, also has had to sue EPA and eventually won release of a copy of Pruitt's private calendar from February up to May 2017.

Washington Examiner

<http://www.washingtonexaminer.com/epa-starts-dismantling-obama-methane-rules-on-new-fracking-wells/article/2650485>

EPA starts dismantling Obama methane rules on new fracking wells

By John Siciliano, 3/1/18, 6:33 PM

The Environmental Protection Agency announced two piecemeal actions on Thursday to reduce costs and regulatory "burdens" imposed on the oil and natural gas industry by the Obama administration's methane emission rules.

The EPA said the two actions would reduce "significant and immediate compliance concerns" for the industry, while reducing "burdens" on state environmental agencies and saving millions of dollars in compliance costs.

Bill Wehrum, the EPA's recently appointed air pollution chief, described the actions as the first steps in addressing the broader methane regulations imposed by the Obama administration on new wells.

He anticipates that the agency will take future actions to dismantle the methane regulations, including addressing the question of whether emissions from oil wells should be regulated.

"The technical amendments to the 2016 oil and gas [new source rule] are meant to alleviate targeted regulatory compliance issues faced by affected sources," Wehrum said. "While this action addresses an immediate need, it does not deter the ongoing work at the agency to assess the 2016 rule as a whole, including whether it is prudent or necessary to directly regulate methane."

The first of the two actions taken Thursday includes two amendments to the fugitive emissions requirements under the rule for oil and natural gas wells.

The first amendment updates a requirement that all leaking components of a well be repaired during unplanned or emergency shutdowns. The second amendment covers the emissions monitoring surveys that drillers are required to perform on Alaska's North Slope, the heart of U.S. oil operations in the Arctic.

These two amendments were made final in Thursday's announced actions.

In addition, the agency proposed to withdraw the Obama EPA's "control techniques guidelines" for drillers, which Wehrum noted would save the industry between \$14 million and \$16 million in costs from 2021-2035.

The guidelines are meant to help control smog-forming volatile organic compound emissions from existing oil and natural gas equipment in regions where smog has been a long-standing problem.

AP

<https://apnews.com/9dbfbdd546344c1f9d9b08dcc81d3590/Trump-EPA-moves-to-roll-back-more-rules-on-fuels-pollution>

Trump EPA moves to roll back more rules on fuels pollution

By Michael Biesecker and Matthew Brown, 3/2/18

WASHINGTON (AP) — The Trump administration said Thursday it is rewriting Obama-era rules governing pollution from oil and gas operations and coal ash dumps, moves that opponents say will significantly weaken protections for human health and the environment.

The changes proposed by the Environmental Protection Agency are the latest in series of actions taken over the last year to roll back regulations opposed by the fossil-fuel industry. The agency said the revisions would save electric utilities \$100 million per year in compliance costs, while oil and gas operators would reap up to \$16 million in benefits by 2035.

Environmental advocates predicted the revisions would lead to dirtier air and water.

The 2016 standards governing leaks and emissions from oil and gas drilling operations sought to reduce the amounts of methane and volatile organic compounds, or VOCs. Methane is a potent greenhouse gas that traps heat in the atmosphere, contributing to climate change. VOCs are a component of ground-level ozone, air pollution that can aggravate asthma and contribute to early deaths from respiratory disease.

In a statement, EPA Assistant Administrator for Air and Radiation Bill Wehrum said the changes will “provide regulatory certainty to one of the largest sectors of the American economy and avoid unnecessary compliance costs to both covered entities and the states.”

Prior to joining the Trump administration in November, Wehrum worked as a lawyer representing fossil fuel and chemical companies regulated by the EPA office he now leads.

Environmental groups said the Trump rollbacks would let large-scale polluters off the hook.

“This move would put an estimated 25 million people who live in counties with dangerously unhealthy air at even greater risk from oil and gas related air pollution by rolling back measures that are flexible, cost-effective and that have been proven to work by leading states and responsible companies,” said Matt Watson, a spokesman for the Environmental Defense Fund.

The EPA also proposed amending rules to give state regulators more authority over how utilities dispose of the ash left behind when coal is burned to generate electricity. The gray ash, typically dumped near coal-fired power plants in unlined pits, contains toxic heavy metals such as lead and arsenic that over time can leach into groundwater or nearby rivers, potentially contaminating sources of drinking water.

“Today’s coal ash proposal embodies EPA’s commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states,” EPA Administrator Scott Pruitt said.

The announcement came on the eve of a deadline for utilities to release reports documenting coal ash contamination of water supplies at hundreds of power plants across the United States. The pollution reports were intended as a first step toward cleaning up the contamination leaking from the ash pits.

EPA said it will be taking comment on whether future deadlines for ash pollution cleanup efforts will remain in place or be pushed back. Agency representatives did not immediately respond to questions about whether Friday’s deadline still stands.

A spokeswoman for American Electric Power said the company still intends to post its pollution reports even as it begins reviewing the proposed changes. The Ohio-based utility has 14 coal plants in eight states that are covered by EPA’s coal ash rule.

“We support EPA’s efforts to partner with the states,” AEP spokeswoman Melissa McHenry said. “We are complying with the existing federal rules, but have worked closely with our states at many sites regulated under the (coal ash disposal program) for years.”

Frank Holleman, a senior attorney at the Southern Environmental Law Center who has spent years pressing utilities to clean up coal ash, said the changes would hand over too much responsibility to state officials often too deferential to lobbyists from big utilities.

"Instead of protecting American communities and rivers from coal ash, EPA is trying to bail out utilities polluting our waterways and drinking water supplies," he said. "These proposals will weaken rules that protect our groundwater from arsenic and mercury, and continue to extend the use of unlined, leaking coal ash pits next to our waterways. America's families and clean water deserve better."

Politico

<https://www.politicopro.com/energy/whiteboard/2018/03/epa-appointees-got-ethics-waivers-on-rfs-agriculture-issues-721426>

EPA appointees got ethics waivers on RFS, agriculture issues

By Alex Guillen, 3/1/18, 3:09 PM

Three key EPA political appointees were granted waivers from President Donald Trump's ethics pledge last year, according to documents released under the Freedom of Information Act.

Erik Baptist, a senior deputy general counsel, needed a waiver to work on the Renewable Fuel Standard because of his past employment with the American Petroleum Institute, where he was listed as a lobbyist until early 2016.

"His expertise and comprehensive understanding of the challenges and nuances of the RFS program are needed to counsel and advise" the EPA administrator, EPA's acting general counsel, Kevin Minoli, wrote to White House counsel Don McGahn in August. Shortly after that, McGahn granted Baptist's waiver, saying he was "an ideal person" to advise Pruitt on the RFS.

McGahn issued an even broader waiver in October to Jeff Sands, an agricultural adviser to Administrator Scott Pruitt who previously lobbied for Syngenta. Minoli noted in his request to McGahn that Pruitt at that time still lacked key political appointees and needed Sands "to be able to work on the full range of agricultural issues to the maximum extent possible."

EPA also issued a waiver to Lee Forsgren, the deputy assistant administrator for water, who lobbied for Florida's Miccosukee Tribe of Indians before joining EPA. EPA was concerned Forsgren would need to work with the tribe in the wake of Hurricane Irma, but the storm "veered away" from their reservation and they never contacted Forsgren, the agency said.

E&E News PM

<https://www.eenews.net/eenewspm/stories/1060075319/search?keyword=EPA>

Top science adviser uncertain about human role in warming

By Corbin Hiar, 3/2/18

The head of U.S. EPA's Scientific Advisory Board today said he wasn't sure if man-made emissions of greenhouse gases were causing climate change.

"I really don't know," SAB Chairman Michael Honeycutt told E&E News.

"I haven't studied that," he said along the sidelines of the American Chemistry Council's GlobalChem conference. "I try to stay in my lane. I have too much really in my field to keep up with to jump over here and study that."

Honeycutt, who has been leading the SAB since Feb. 18, received a Ph.D. in pharmacology and toxicology from the University of Louisiana, Monroe, in 1993, according to his profile on the business networking site LinkedIn.

As head of the SAB, Honeycutt is now tasked with providing scientific advice to EPA Administrator Scott Pruitt and congressional committees with oversight of the agency.

That means Honeycutt and his board will likely have to weigh in on the regulation EPA puts forward to replace the Clean Power Plan, the Obama administration's signature rule for addressing carbon dioxide emissions from power plants, which the vast majority of scientists believe are a primary driver of global warming.

Honeycutt, who has led the Texas Commission on Environmental Quality's toxicology division for over two decades, argued that his lack of knowledge about climate science wouldn't be a problem.

"We have people on the board who that's their field of study," he said. "And I would rely heavily on them. So anything that comes up, they would certainly be on any subcommittee and actively involved in any of the discussions."

He added, "I just haven't dealt with it at all. Not at all."

Pruitt, Honeycutt's new boss, doesn't deny that climate change is occurring. But he has raised questions about humans' role in warming the planet.

"I think that measuring with precision human activity on the climate is something very challenging to do, and there's tremendous disagreement about the degree of impact," Pruitt told CNBC last year.

Those comments, which came shortly after Pruitt took control of EPA and began rolling back its climate research efforts, prompted an outcry from many scientists who have studied global warming (Greenwire, March 13, 2017).

Evolution

Honeycutt also declined to comment on past statements Pruitt has made questioning scientific support for the theory of evolution.

"I can't speak for Administrator Pruitt, and I don't really know that that's within the realm of the Science Advisory Board," he said. "It just doesn't seem like a question that I should address."

Pruitt's recently unearthed comments on evolution were provided to Politico by an anonymous source.

"There aren't sufficient scientific facts to establish the theory of evolution, and it deals with the origins of man, which is more from a philosophical standpoint than a scientific standpoint," Pruitt said on a local talk radio show in 2005 when he was an Oklahoma state senator.

Pruitt's views on evolution, which EPA didn't dispute, are similar to those held by many other Christian conservatives but well outside the scientific mainstream. Evolution is a core theory that, while unprovable, is supported by a broad range of verifiable scientific evidence.

Honeycutt, who said he plans to lead his first full meeting of the SAB in May or June, is willing to look into the theory of evolution for Pruitt.

"If that's something he would like the board to take up, he can direct us to," he said.

Chemicals official cleared to weigh in on industry litigation

By Kevin Bogardus, 3/1/18

Senior U.S. EPA chemicals official Nancy Beck has been cleared by agency ethics officials to take part in certain cases involving her former employer, the American Chemistry Council.

Kevin Minoli, EPA's designated ethics official, issued Beck a new memo, obtained by E&E News under the Freedom of Information Act, allowing her to participate in five cases where the chemicals trade group had intervened in court.

Minoli concluded the U.S. government's interest in Beck participating in the litigation outweighed "any concerns about your impartiality" and authorized Beck to take part in the cases.

He noted that Beck, who serves as deputy assistant administrator in EPA's chemicals office, also has helped to defend agency actions and regulations that have been challenged in court. But when the agency was made aware that ACC had intervened in the lawsuits, "you ceased your involvement and sought further ethics advice."

"We indicated that unless you received an impartiality determination from me, the federal impartiality standards would prohibit you from continuing your work on specific party matters," said the memo, dated Jan. 11.

Minoli's determination will be short-lived. Beck will no longer need it after April 21, when she will not have a "covered relationship" with ACC, according to the memo.

Beck has attracted scrutiny as an EPA official due to her past work at ACC, where she often pushed back on agency rules.

Last April, she was hired at EPA in an "administratively determined" position and was not considered a political appointee. Consequently, Beck didn't have to sign President Trump's ethics pledge, although she was still bound by federal conflict-of-interest laws (Greenwire, Aug. 8, 2017).

At least three Trump appointees at EPA — all former lobbyists — have been given waivers for the president's ethics pledge (Greenwire, Feb. 23). But at least one of those officials didn't end up needing his waiver.

Dennis Lee Forsgren, the political deputy in EPA's water office, did not wind up talking about Hurricane Irma with a former lobbying client, the Miccosukee Tribe of Indians of Florida, which triggered the waiver, according to ethics records.

The waiver "was ultimately not necessary because the hurricane veered away from the Miccosukee Reservation. Consequently, the Tribe was not as severely impacted as initially anticipated and did not reach out to Mr. Forsgren at all. Therefore, this limited waiver was never utilized."

Forsgren still has recused himself from matters involving his former employer, HBW Resources, and its clients. His recusal statement expires June 18, 2019.

Industry ties

Other EPA ethics documents obtained by E&E News under FOIA highlight Trump appointees' ties to industry and other interests that have battled with the agency in the past.

Justin Schwab, deputy general counsel at EPA, wrote two different recusal statements — one in February 2017 as a "beachhead team" member and another this past August after he had joined the agency permanently.

Schwab pledged to not take part in matters involving law firm Baker and Hostetler LLP, which is where he used to work before coming to EPA. That includes several former clients that may have "environmental interests" he listed in his

statement, such as the American Fuel & Petrochemical Manufacturers, Caterpillar Inc., Chevron Corp., Southern Co. and Valero Renewable Fuels Co. LLC.

Schwab also said he wouldn't participate in legal issues where the state of Oklahoma or the Virginia House of Delegates is a party. But both those recusal periods have already ended — Sept. 23 last year for Oklahoma and Aug. 31 for Virginia.

Patrick Traylor, deputy assistant administrator for enforcement and compliance assurance, also signed an ethics document, which listed more than four dozen prior energy clients.

Traylor, who came to EPA from the law firm Hogan Lovells LLP, spent about two decades at the firm. Traylor agreed not to be involved in particular matters involving utilities like NRG Energy Inc. and Southern California Edison, Koch Companies Public Sector LLC, Koch Minerals, and BHP Billiton Petroleum Inc.

The need for his recusal ends June 5, 2019.

Like EPA air chief Bill Wehrum, for whom he now works, Senior Counsel David Harlow was previously at the law firm Hunton & Williams LLP. There, his clients included the Utility Air Regulatory Group, DTE Energy Co., Chevron and the holding company for Kentucky Utilities Co., according to his recusal statement from late December.

Under Trump's executive order, Harlow wrote that he is barred from participation for two years "in any particular matter" involving clients for whom he or Hunton & Williams provided legal services in the last two years. According to the memo, Harlow is recused from working on five cases challenging various Obama-era regulations, such as the Mercury and Air Toxics Standards and the Clean Power Plan.

Administrator Scott Pruitt also has his own recusal statement dated from last May where he pledged to stay out of litigation he pursued against EPA as Oklahoma attorney general (E&E News PM, May 5, 2017).

Other Trump appointees were allowed to keep outside jobs.

Patrick Davis, a longtime Republican political consultant who was Trump's 2016 Colorado state campaign director, received approval from EPA to be compensated as sales director of Telephone Town Hall Meeting, or TTHM, a teleconference service company.

Davis, who is now a senior adviser in EPA's Denver office, had to work for TTHM on his own time and couldn't use agency resources for the job. In addition, he couldn't take part in EPA duties that could affect the company, and his outside income was capped at \$27,765 for the year.

Regional officials

A number of EPA regional administrators appointed by Trump have also signed recusal statements.

Region 4 chief Trey Glenn recused himself from participating in "any particular matter" involving his former employers, Blue Ridge Consulting Services Inc. and Strada Professional Services LLC. He also said he wouldn't take part in matters involving at least 14 clients, including law firm Balch & Bingham LLP, Black Mesa Energy, the Business Council of Alabama and Drummond Co.

Glenn's recusal lasts for two years from the time he joined the federal government.

Doug Benevento, who runs EPA's Denver office, filed a similar statement recusing himself from issues that impacted his former employer, Xcel Energy Inc., a utility holding company. Region 7 Administrator Jim Gulliford also pledged to keep his distance from the Soil and Water Conservation Society as well as Agriculture and Conservation Services LLC — both of whom he used to work for.

Like Beck of the chemicals office, Pete Lopez, head of EPA's Region 2 branch, was given an impartiality determination to take part in "particular matters" that affect the state of New York. Lopez is a former New York state assemblyman.

But it appears other high-profile Trump appointees at EPA were not given ethics documents.

Michael Dourson, once an adviser to Pruitt whose nomination to lead the chemicals office was withdrawn last year among Democratic and Republican opposition, came under scrutiny for his ties to industry. EPA didn't find any such records for Dourson, according to the agency's response to E&E News' request.

The Hill

<http://thehill.com/policy/energy-environment/376511-week-ahead-house-takes-up-bills-targeting-epa-regs>

Week ahead: House takes up bills targeting EPA regs

By Timothy Cama, 3/5/18, 6:00 AM

The House will move in the coming week on a trio of regulatory and energy bills.

The Rules Committee has scheduled a meeting Monday to begin looking at the three proposals: the Satisfying Energy Needs and Saving the Environment Act, the Blocking Regulatory Interference from Closing Kilns Act and the Comprehensive Regulatory Review Act.

The House is likely to take up the bills in the days following the committee's meeting.

The first two bills seek to change Environmental Protection Agency (EPA) regulations to benefit specific industries.

The Satisfying Energy Needs and Saving the Environment Act would exempt certain power plants that burn coal refuse from parts of a major 2012 air pollution rule. The Blocking Regulatory Interference from Closing Kilns Act, meanwhile, would delay implementation of a 2015 rule on air pollution from brick kilns.

The committee is also due to consider the Comprehensive Regulatory Review Act, which would expand federal agencies' responsibilities to regularly review their rules and policies for potential repeals or changes.

Elsewhere in the House, the Natural Resources Committee will meet for a Tuesday hearing on exploring ways to reduce the Interior Department's maintenance backlog in agencies like the National Park Service and the Fish and Wildlife Service.

The Natural Resources Committee will also meet Wednesday to vote on three bills concerning strategic minerals, Western federal land transfers and federal land in the Virgin Islands.

Also on Wednesday, the House Energy and Commerce Committee's environment subcommittee has scheduled a hearing on the future of transportation fuels.

In the House Oversight Committee, lawmakers in the interior subcommittee are planning a Tuesday hearing on the Army Corps of Engineers.

On the other side of Capitol Hill, the Senate Energy and Natural Resources Committee will meet Tuesday to hear from James Reilly II, President Trump's nominee to be director of the U.S. Geological Survey.

Bloomberg

<https://www.bloomberg.com/news/articles/2018-03-01/third-white-house-biofuel-summit-this-week-ends-without-deal>

Third White House Biofuel Summit This Week Ends Without Deal

By Jennifer A. Dlouhy and Mario Parker, 3/2/18, 12:00 AM

President Donald Trump found out how difficult it is to bridge the competing interests of ethanol producers and oil refiners as a third White House biofuel meeting in four days ended with no agreement on how to change U.S. policies.

Trump has been trying to address complaints from refiners who say the U.S. biofuel mandate -- the Renewable Fuel Standard -- is too costly, without alienating another key constituency: corn farmers and ethanol producers who helped elect him president.

Each side was represented in a one-hour discussion on Thursday, but they left with no breakthrough -- only a commitment to keep talking and the parameters of a potential solution, said three people familiar with the talks who asked not to be named to describe the meeting, which was closed to the press.

Participants discussed a possible policy change that would effectively cap the price of the compliance credits refiners use to prove they have fulfilled annual biofuel quotas, in exchange for an environmental waiver to allow year-round sales of E15 gasoline, containing 15 percent ethanol.

Waiver Credits

Compliance credits tracking 2018 ethanol targets plunged 13 percent to 55 cents each after the meeting, according to broker data compiled by Bloomberg.

Trump floated the idea of the Environmental Protection Agency selling ethanol waiver credits for two years at 10 cents in exchange for the E15 policy change that could expand the domestic market for ethanol.

Senator Chuck Grassley, a Republican from Iowa, the top U.S. corn growing and ethanol-producing state, tweeted after the meeting about what he called an "emerging solution."

A "true win-win" is selling E15 year-round, a change that would lower refiners' compliance costs while also helping farmers squeezed by low corn prices, Grassley said on Twitter.

Participants in Thursday's gathering included the same Republican senators who met with Trump on the issue Tuesday: Ted Cruz of Texas, Pat Toomey of Pennsylvania, and Grassley and Joni Ernst of Iowa.

Economic Impacts Debated

But the focus was on 11 industry representatives who came to spell out the economic consequences of potential biofuel policy changes, including the chief executives of biofuel producers Poet, Green Plains Inc. and Renewable Energy Group Inc. and oil refiners Valero Energy Corp., PBF Energy Inc. and Delta Air Lines Inc.'s Monroe Energy LLC.

Bill Horan, a farmer with Western Iowa Energy LLC, and United Steelworkers President Ryan O'Callaghan also participated.

Tom Nimbley, chief executive of New Jersey-based refiner PBF Energy Inc., termed the conversation "productive."

"We will continue to work with the president, senators and all stakeholders that can provide important reforms that are a win for farmers and a win for union refinery workers," Nimbley said in an emailed statement.

But Jeff Broin, chief executive of ethanol producer Poet LLC, who also participated in Thursday's gathering, said "nothing new was discussed."

Jobs Imperiled?

"Removing accountability from oil companies would deprive millions of Americans the freedom to choose less expensive, homegrown biofuels and imperil countless jobs and family farms across America's heartland," Broin said in an emailed statement. "This issue will continue to play out. We will protect interests of this industry, farmers and consumers."

Refiners' concerns generally center around the compliance credits, known as renewable identification numbers, or RINs, that they use to prove they have satisfied annual biofuel quotas.

Administration officials have been considering a menu of possible changes the EPA could make without Congressional action to lower the cost of those RINs and expand the market for ethanol.

The conflict over the 13-year-old RFS that mandates biofuel use at a certain level began long before Trump moved into the White House, and it's among the most intractable energy policy disputes in Washington. Federal law enshrines biofuel targets through 2022, but after that the EPA has more latitude to set annual quotas and shift its approach.

"Nothing will change until there is a sense of risk about what might happen after 2022," said Mike McKenna, a Republican energy strategist. "For most on the Democratic side, this eventually becomes an electric vehicle mandate if they're in charge. For most on the Republican side, the program should zero out in 2022."

Trump asked for another meeting on the issue next week and told participants he wanted to see studies on the economic effects of potential policy changes.

Politico

<https://www.politicopro.com/energy/article/2018/03/sources-trump-open-to-expanding-ethanol-seeks-new-meeting-382569>

Sources: Trump open to expanding ethanol, seeks new meeting

By Eric Wolff, 3/1/18, 7:15 PM

President Donald Trump appeared to favor expanding the sale of 15 percent ethanol blends in gasoline at a meeting Thursday, but a broader deal on the biofuel program remained elusive and Trump proposed huddling on the issue again next week, according to multiple sources who attended Thursday's gathering or were familiar with its discussions.

Trump's apparent backing for EPA granting a waiver to allow sales of E15 gasoline nationwide year-round sparked some optimism from staunch biofuel backer Sen. Chuck Grassley, who attended the meeting that brought EPA Administrator Scott Pruitt, Sens. Joni Ernst (R-Iowa), Ted Cruz (R-Texas), Pat Toomey (R-Penn.) and executives from 12 refining and biofuel companies and groups to the White House.

"Emerging solution fr WH mtg 2day is year round e15," Grassley tweeted after leaving the gathering, which was the second on the Renewable Fuel Standard this week at the White House.

Trump asked repeatedly about the E15 waiver and welcomed an assessment that an EPA waiver would drive down the price of biofuel credits, called Renewable Identification Numbers. Independent oil refiners like Valero Energy, PBF, and Monroe Energy, all of which sent executives to the White House, have long complained that the high price of those credits was hurting their profits.

"I think it was clear the president understands the importance of E15 nationwide year-round sales to help the refiner and help the farmer," said Todd Becker, CEO of Green Plains, an ethanol producer and commodity processing company

who attended the meeting. "That was very encouraging that came out of the meeting. He took the time to think about it, he understood that E15 could help solve this problem."

Ethanol producers have said for years that allowing year-round sales of E15 increase ethanol production and in turn create more RINs, which would lower their prices.

"I think first and foremost, there was an appreciation by everyone in the room that blending E15 year-round instead of just in the winter months would grow the ethanol usage and drive down ethanol RIN prices," said Randy Howard, CEO of Renewable Energy Group, a biodiesel producer who attended the meeting. "That was a general consensus."

But only a small percentage of the nation's retail stations are equipped to sell E15 or higher blends, and refining company sources said executives at the meeting argued that it would take time to add the needed infrastructure. They asked for a price cap on RINs while stations built that capacity — a proposal that met resistance from the biofuels representatives.

Two sources briefed on the meeting said Trump then proposed a two-year price cap to allow time for RIN prices to fall. But biofuel sources balked and said those caps would gut the program.

Ernst called for more studies on how a cap on RIN prices would affect the industry, sources said. The meeting broke up soon after, with Trump asking for an additional meeting next week.

Oil industry interests have generally opposed the waiver to expand E15 sales, and they helped beat back a legislative change last year that would have allowed it under Clean Air Act. While Thursday's meeting included CEOs from some refiners, it did not include any representatives from larger oil industry players, many of whom are fierce opponents of the RFS and have opposed any changes short of dismantling it.

The date and participants in the next meeting are still to be determined.

The meeting will be the fourth Trump has taken on the RFS, dating back to last year, and the third in a two-week period. On Tuesday, Grassley, Ernst, Cruz, and Toomey met with Trump, his top advisors, Pruitt, and USDA Secretary Sonny Perdue.

The White House press office was not able to comment on the meeting.

Politico

<https://www.politicopro.com/energy/article/2018/03/epa-gives-oil-and-gas-companies-up-to-2-years-to-fix-methane-leaks-723484>

EPA gives oil and gas companies up to 2 years to fix methane leaks

By Alex Guillen, 3/1/18, 6:08 PM

The Trump administration said Thursday that oil and gas companies can wait up to two years to fix methane leaks from future wells or other production facilities, even if those wells go into an unscheduled or emergency shutdown.

EPA is dropping a requirement from its 2016 rule for new oil and gas wells that would have required oil and gas operators to repair leaks during unscheduled or emergency shutdowns. Under the terms of a new final rule to be published in the coming days, leaks would have to be repaired during the next regularly scheduled shutdown or within two years, whichever is sooner.

Industry groups had asked EPA for the change, saying the Obama-era rule sometimes could cause higher emissions because workers would have to depressurize equipment to repair it, releasing more methane than would have been leaked.

The agency also loosened requirements for initial monitoring surveys of new wells along Alaska's North Slope. Those surveys had been required within 60 days of startup, but that mandate will now only apply to wells that come online from April to August. Those started in the fall and winter will have up to six months or until June 30 to complete the survey, whichever comes first. Extreme cold in those winter months can affect detection equipment, EPA says.

Click here for the pre-publication notice and an agency fact sheet on the two changes, which EPA said were necessary because the old requirements created an "immediate compliance concern" for companies. EPA's first attempt to delay the methane rule was tossed out by a court last year; these amendments represent another step in the agency's reconsideration of the underlying rule.

EPA said it could not estimate how much additional methane would be released into the atmosphere — or how much money companies would save — by relaxing the leak-repair requirements. The North Slope changes will save industry \$24,000 a year in compliance costs, and increase methane emissions by 34 short tons, or 772 tons of carbon dioxide equivalent.

The American Petroleum Institute immediately praised EPA's action, and called on the agency to make "additional improvements to ensure that its rules are science-based and cost-effective."

EPA is still considering how to revise or repeal the overall rule after abandoning efforts to stay the bulk of its deadlines. It is not clear when EPA will take further action.

In a separate but related action, EPA proposed repealing its 2016 Control Techniques Guidelines for the oil and gas industry. The guidelines provide recommendations for states with air quality problems to reduce ozone-forming emissions of volatile organic compounds.

The CTG, which did not create requirements for states or industry to act, was based on data both from the 2016 methane rule that EPA is now reconsidering and from an earlier rule dating to 2012. Repealing it now could save states from having to revise their implementation plans twice as EPA revises the 2016 rule, the agency argued.

EPA will take comment on the proposed CTG withdrawal for 45 days once it is published in the Federal Register.

E&E Energywire

<https://www.eenews.net/energywire/stories/1060075255/search?keyword=EPA>

EPA changes methane rule, pollution-reduction guidelines

By Mike Soraghan and Sean Reilly, 3/2/18

The Trump administration made a new change to U.S. EPA's methane rule yesterday, saying that leaks need not be fixed during unplanned or emergency shutdowns.

Trump officials at EPA said requiring leaks to be fixed at those times could cause disruption to natural gas supplies.

EPA Office of Air and Radiation Assistant Administrator Bill Wehrum said the changes were "technical amendments" that are "meant to alleviate targeted regulatory compliance issues faced by affected sources."

The agency said it is finalizing amendments to make the change based on public comments and information received in response to its proposed stay last summer (Energywire, June 14, 2017).

EPA said it learned that requiring repairs during such unscheduled or emergency shutdowns could result in natural gas supply disruptions, safety concerns and increased emissions.

Owners and operators are still required to complete repairs during the next scheduled compressor station shutdown, well shutdown, well shut-in, after a planned vent blowdown, or within two years, whichever is earlier.

EPA also changed leak monitoring requirements to provide a separate monitoring schedule for well sites on the Alaskan North Slope to accommodate the area's arctic climate.

EPA officials said they learned that the technologies specified in the rule cannot reliably detect methane emissions for much of the year because of extremely cold temperatures.

In a related move, EPA Administrator Scott Pruitt also signed off on the proposed withdrawal of "control techniques guidelines" intended to reduce emissions of volatile organic compounds from existing oil and gas operations. Under the Obama administration, EPA had published the guidelines in October 2016.

In sunshine, such compounds react with nitrogen oxides to create ground-level ozone, the main ingredient in smog. The guidelines, or CTGs, are technical recommendations for states to consider for areas deemed in "moderate" nonattainment or worse for EPA's 2008 ozone standard of 75 parts per billion.

They also apply in the Ozone Transport Region, which encompasses 11 Northeastern states, the District of Columbia and northern Virginia. By EPA's estimate, emissions would have fallen by about 80,000 tons annually if all of the affected states had adopted them.

But industry advocates singled out the potential pricetag, particularly for small operators. Repealing the guidelines will save oil and gas companies between \$14 million and \$16 million from 2021 to 2035, EPA said in a news release yesterday. "We think it's really good that the administration is moving to allow this issue to be addressed in a very thoughtful and straightforward manner," Lee Fuller, executive vice president of the Independent Petroleum Association of America, said in an interview.

Wehrum, whose clients included the American Petroleum Institute when he was a lawyer in private practice, said in the release that withdrawal was needed to avoid unneeded compliance costs and "provide regulatory certainty to one of the largest sectors of the American economy."

Public health and environmental groups denounced the move. "It makes no sense to withdraw oil and gas air pollution standards that help states control pollution that contributes to ozone nonattainment in their communities," Paul Billings, senior vice president for advocacy at the American Lung Association, said in an email.

The public will have 45 days to comment on the proposal once it's published in the Federal Register.

Politico

<https://www.politicopro.com/energy/whiteboard/2018/03/epa-issues-ozone-threshold-implementation-rule-721102>

EPA issues ozone threshold implementation rule

By Alex Guillen, 3/1/18, 2:50 PM

EPA today released its threshold ozone implementation rule for states with areas that do not meet the 2015 ozone standard, a necessary step before it issues nonattainment designations that are expected in April.

The thresholds are used to determine deadlines for each state to clean up their air. For example, nonattainment areas deemed “marginal” are those with ozone concentrations of 71 parts per billion to 81 ppb, and will have three years to meet the standard. “Moderate” nonattainment areas fall between 81 ppb and 93 ppb, and will have six years.

The worst category, “extreme,” is for areas above 163 ppb, and would have 20 years to meet the standard. There are two areas currently considered extreme under the 2008 ozone standard, which set that top threshold at 175 ppb, both in California.

EPA has yet to name any nonattainment areas under the 2015 standard, an action that would trigger these deadlines for states to act. The agency plans to issue the final designations by April 30, although it said it will need until August to consider new data about air quality in the San Antonio region.

The Obama administration originally proposed the thresholds in November 2016, and the Trump EPA said last year that it would re-propose different figures. But last month, EPA reversed course under legal pressure to issue the designations quickly, and said it would stick with the original Obama-era proposal.

E&E News PM

<https://www.eenews.net/eenewspm/stories/1060075209/search?keyword=EPA>

EPA issues nonattainment framework for 2015 ozone standard

By Sean Reilly, 3/1/18

U.S. EPA will stick with a long-standing framework for classifying areas out of attainment with its 2015 ground-level ozone standard, according to a final rule signed today by agency chief Scott Pruitt.

The rule sets five levels for demarcating the degree of nonattainment with the 70-parts-per-billion standard. They range from “marginal,” defined as areas with 71 to 81 ppb of ozone, to “extreme,” which would apply to areas with ambient ozone concentrations of 163 ppb or more.

That approach “is based on the classification thresholds established for the ozone standard” in place at the time of the 1990 Clean Air Act amendments, according to an EPA summary.

The rule also sets the deadlines for nonattainment areas to come into compliance, ranging from three years for marginal areas to two decades for extreme areas.

EPA issued the draft rule in November 2016; the final version must still be published in the Federal Register. EPA, which has already deemed the bulk of the country in attainment with the 2015 standard, plans to make all remaining designations by this August.

AP

<https://apnews.com/b66a6e932ce54addaa4395dc9e6913b9/Seafood-processor,-EPA-reach-settlement-on-waste-violations>

Seafood processor, EPA reach settlement on waste violations

3/2/18

ANCHORAGE, Alaska (AP) — Trident Seafoods Corp. will pay a nearly \$300,000 civil penalty to settle violations of federal clean water rules at two Alaska ports.

The Environmental Protection Agency says the \$297,000 proposed settlement is for violations by processing plants at Sand Point and Wrangell.

Trident will remove seafood processing waste that covers nearly 3.5 acres of ocean floor near the Sand Point plant. The company was required to limit its waste pile to one acre.

Waste piles contain bones, shells and other organic materials that can make habitat unsuitable for fish and other marine organisms.

At Wrangell, Trident agreed to screen out most solid seafood wastes.

Dive surveys will monitor future accumulated seafood waste.

The proposed settlement is subject to a 30-day comment period and final court approval.

Washington Examiner

<http://www.washingtonexaminer.com/refinery-workers-push-to-fix-broken-ethanol-mandate/article/2650597>

Refinery workers push to fix broken ethanol mandate

By John Siciliano, 3/3/18, 12:01 AM

The wrangling over the nation's ethanol mandate is heading into March, as refinery workers from nearly a dozen states and the steelworkers union descend on Washington next week to tell lawmakers how the program is harming their livelihoods.

The lobbying push organized by the United Steelworkers begins Tuesday with visits by 30 workers from more than a dozen independent merchant oil refineries in 11 states to discuss "the urgent need" to overhaul the Environmental Protection Agency's Renewable Fuel Standard.

The lobbying push follows a week of unprecedented attention by President Trump, who hosted multiple meetings this week with the industry and senators to hash an agreement on how to fix the program.

Industry sources after the meetings suggested the goal of this week's discussions on the ethanol mandate was about keeping the two sides talking about how to fix the problem, not to necessarily resolve the debate.

Hence, the fight will continue in Washington next week, with the unions and refinery workers making their case to Congress on Tuesday and Wednesday.

Their primary message will be about how ethanol credits, or RINs, that refiners have to buy to abide by the Environmental Protection Agency's ethanol mandate "threaten thousands of family-supporting, community-sustaining jobs across the country," according to the union.

"Although the multibillion dollar ethanol industry and its powerful lobbyists are determined to prove otherwise, our laws are not intended to guarantee profits for RIN traders," said Kim Nibarger, the United Steelworkers national oil bargaining chairman, who will be leading the meetings in Washington. The refiners are currently forced to buy the RINs at "artificially inflated prices," because most of the independent refinery industry lacks the infrastructure to blend ethanol into the gasoline supply.

"A growing number of elected leaders from both parties have already joined us in calling for RFS reform that benefits consumers and protects oil community jobs without significantly impacting the ethanol industry," Nibarger said. "We welcome the support of others who will stand with us to demand a fair compromise."

That compromise is what Republican Sens. Ted Cruz of Texas and Pat Toomey of Pennsylvania pushed at the meeting with Trump. They want the administration to cap the cost of ethanol RINs at 10 cents, ensuring that the price cannot rise. But the pro-ethanol camp does not support the idea because it says it would hurt demand for ethanol.

Republican Sen. Chuck Grassley, from the ethanol-producing state of Iowa who was at both meetings this week, said the only solution to the problem is to allow higher amounts of ethanol to be blended in the fuel supply. That would solve both the refiners' concerns about high RIN prices by ensuring that costs stay low, while creating a larger market for renewable fuel blends.

Some refinery CEOs at the meeting did not say which policy they support after the Thursday meeting, but said they will continue to work with all parties to "provide important reforms that are a win for farmers and a win for union refinery workers," according to PBF Energy CEO Thomas Nimbley. PBF Energy had been looking for changes to the RFS to waive the need for refiners to buy RINs under the EPA program.

"It is hugely important to our national security and a reliable gasoline supply to have modest reforms to the Renewable Fuel Standard that can protect hardworking union jobs in the Northeast and across the country," Nimbley said after the meeting.

East Coast refiners are particularly susceptible to the ethanol mandate's cost, according to the industry. The largest refinery in the region, Philadelphia Energy Solutions, said it had to file for bankruptcy protection because of the high cost of RINs.

This week's lobbying campaign will include workers from the Philadelphia Energy Solutions and Monroe Energy refineries, which are in the Philadelphia area.

PBF Energy workers from refineries in California, Delaware, New Jersey, Louisiana, and Ohio will fly in for the event.

Western workers from HollyFrontier refineries in Kansas, Wyoming, and Utah will also be joining. Valero refinery workers from Louisiana, Tennessee, and Texas will also be on Capitol Hill. Most of the companies represented were at last week's meetings with Trump.

Politico

<https://www.politicopro.com/energy/whiteboard/2018/03/court-keeps-clean-power-plan-case-on-hold-720117>

Court keeps Clean Power Plan case on hold

By Emily Holden, 3/1/18, 2:22 PM

A federal court today put lawsuits against EPA over the Obama administration's Clean Power Plan in abeyance, giving the agency another 60 days as it seeks to repeal and replace the power-sector climate regulation.

The U.S. Court of Appeals for the D.C. Circuit first froze litigation in April 2017. In August, two judges argued in a subsequent abeyance notice that EPA is ignoring its statutory duty to regulate greenhouse gases if it does not write a new rule.

EPA is collecting comments on a replacement to the Obama administration rule until April 26 and is aiming to finalize new standards by the end of the year, POLITICO has reported.

WHAT'S NEXT: The court ordered EPA to file status updates on its CPP repeal effort every 30 days.

E&E News PM

<https://www.eenews.net/eenewspm/stories/1060075195/search?keyword=EPA>

Court extends hold on litigation

By Jeremy P. Jacobs, 3/1/18

A federal appeals court today granted U.S. EPA's request to keep consolidated litigation over the Obama administration's Clean Power Plan on hold.

The short order from the U.S. Court of Appeals for the District of Columbia Circuit is a partial win for the agency but maintains the status quo in the case.

EPA had asked the court to keep the case in abeyance until it issues its replacement for the rule, which aimed to significantly cut greenhouse gas emissions from power plants. The Trump administration moved to repeal the program soon after entering office.

The D.C. Circuit granted the request for 60 days, requiring EPA to provide updates every 30 days.

The Obama-era rule was stayed by the Supreme Court in a 5-4 vote in February 2016, just days before conservative Justice Antonin Scalia died.

All the judges on the D.C. Circuit heard arguments in the case, and environmental groups have pressed the court to issue a decision.

Last April, however, the court agreed to EPA's request to hold the case in abeyance in 60-day increments, with monthly status reports — a schedule that environmental groups later agreed to in opposition to an indefinite stay.

AP

<https://apnews.com/d600b780c5444e2dbd45f59750a6447f/Groups,-US-reach-settlement-on-predator-killing-poisons>

Groups, US reach settlement on predator-killing poisons

By Keith Ridler, 3/2/18

BOISE, Idaho (AP) — U.S. officials have agreed to complete a study on how two predator-killing poisons could be affecting federally protected species as part of the settlement of a lawsuit filed by environmental and animal-welfare groups.

The 10-page agreement filed Wednesday in U.S. District Court in Montana requires the U.S. Fish and Wildlife Service to complete consultations with the Environmental Protection Agency by the end of 2021 on the two poisons used by federal workers on rural Western lands to protect livestock.

The Center for Biological Diversity and the other groups in the lawsuit filed last year in Montana say Fish and Wildlife is violating the Endangered Species Act by not analyzing with the EPA how sodium cyanide and Compound 1080 could harm federally protected species including grizzly bears and Canada lynx.

The groups say the federal agencies in 2011 started but never finished the analysis.

One kind of device is called an M-44, referred to by those who would like it banned as a “cyanide bomb.” It’s embedded into the ground and looks like a lawn sprinkler but sprays cyanide when triggered by animals attracted by bait smeared on the devices.

A 14-year-old Idaho boy was injured in 2017 when he encountered one with his dog on federally-owned land near his house on the outskirts of the small city of Pocatello. His Labrador retriever dog died.

The Center for Biological Diversity, WildEarth Guardians, The Humane Society of the United States and The Fund for Animals in the lawsuit seek to have the poisons banned.

“Deadly, indiscriminate cyanide bombs and compound 1080 have littered our public lands for far too long,” Bethany Cotton of WildEarth Guardians said in a statement. “We are hopeful the Service will revoke or significantly restrict use of these poisons given recent and past tragedies.”

Interior Secretary Ryan Zinke and the U.S. Fish and Wildlife Service are named in the lawsuit. The U.S. Department of Justice, which defends the government in lawsuits, did not immediately respond Friday to an inquiry from The Associated Press.

M-44s are planted to kill coyotes and other livestock predators. They killed about 12,500 coyotes in 2016, mostly in Western U.S. states.

Other environmental groups in different court action involving the devices say that over the last 20 years they’ve killed about 40 dogs and injured a handful of people.

The other poison targeted in the lawsuit is a pesticide called Compound 1080 that’s placed in collars worn by livestock and ingested by attacking predators.

The lawsuit says the collars can harm non-targeted predators as well as carrion feeders, including birds. The groups also say the collars can be lost or punctured by vegetation, leaving behind poison that can kill non-targeted wildlife.

“The federal government needs to ban these deadly pesticides, but until then we’re hopeful the analysis spurred by our lawsuit will lead to common-sense measures to prevent unintended deaths,” Collette Adkins with the Center for Biological Diversity said in a statement.

AP

<https://apnews.com/706066aff9a74e38aca976a28d801735/US,-Alaska-officials-say-pollution-should-be-handled-locally>

US, Alaska officials say pollution should be handled locally

3/2/18

FAIRBANKS, Alaska (AP) — Alaska residents are better off addressing smoke pollution at the local level, state and federal officials said.

Representatives from the Alaska Department of Environmental Conservation and the U.S. Environmental Protection Agency hosted a town hall on Wednesday to talk about air-quality programs in Fairbanks and North Pole, the Fairbanks Daily News-Miner reported.

Dan Brown, project manager for the EPA, said running the programs at the federal level would be “like solving the problem with a hammer.”

Denise Koch, director of air quality for the DEC, said the state agency would be spread too thin if it was tasked with monitoring the communities' smoke pollution.

"Of course we would do our very best," Koch said. "The reality is, we mostly don't live in this community."

Residents who attended the town hall spoke out in favor and against the air-quality programs.

Many people criticized local air-quality rules, calling the programs government overreach.

Others said the borough is doing too little to address a serious public-health problem.

"We've got to fix the problem," Fairbanks North Star Borough Mayor Karl Kassel said. "I am trying to do it with as light a hand as I can."

The borough has until Dec. 31, 2019, to reduce PM 2.5, a harmful particulate and byproduct of emissions, including wood smoke, which is to blame for much of the air pollution in the area. The smoke lingers when the air is stagnant.

Another town hall meeting on smoke pollution was held in January in North Pole. More meetings are planned, Kassel said.

AP

<https://apnews.com/c99bf0019f74434fb872f9ec75d401e7/EPA-denies-permit-challenges-of-federal-utility-coal-plant>

EPA denies permit challenges of federal utility coal plant

3/2/18

GALLATIN, Tenn. (AP) — The U.S. Environmental Protection Agency has denied an environmental group's challenges to air pollution permits for a federal utility's Tennessee coal-fired power plant.

The decision this week against the Sierra Club says the Tennessee Valley Authority's 2017 permit made substantial changes on pollution monitoring. It says that even if those changes weren't made, the Sierra Club still didn't show that the monitoring was inadequate to assure compliance.

Among other issues, the decision also says the group hasn't shown that the permit, which was issued by the Tennessee Department of Environment and Conservation, is flawed.

Sierra Club attorney Zachary Fabish said the group is disappointed, thinks EPA got things wrong and is reviewing options for next steps.

E&E Daily

<https://www.eenews.net/eedaily/stories/1060075375/search?keyword=EPA>

Vote set on carve-outs for coal waste plants, kilns

By Sean Reilly, 3/5/18

The House is poised to take a fresh pass at legislation that would provide two niche industries with customized exemptions from air pollution regulations.

Late this afternoon, the House Rules Committee will take up H.R. 1119, the "Satisfying Energy Needs and Saving the Environment (SENSE) Act," and H.R. 1917, the "Blocking Regulatory Interference from Closing Kilns (BRICK) Act."

The first, sponsored by Rep. Keith Rothfus (R-Pa.), would exempt power plants that burn coal refuse from some requirements of EPA's 2012 Mercury and Air Toxics Standards.

The second, introduced by Rep. Bill Johnson (R-Ohio), would put an indefinite hold on this year's deadline for makers of bricks and ceramic tiles to meet 2015 hazardous pollutant emissions standards until all legal challenges to those regulations are exhausted.

The Rules Committee meeting today will set the terms for floor debate on the bills later this week.

Similar versions of both bills cleared the House two years ago along largely party lines but then died in the Senate (E&E Daily, March 16, 2016). A similar outcome is likely in this round as most Democrats remain opposed to any easing of air quality regulations.

"Relaxing air standards for businesses does not reduce costs; it merely transfers them from one business to another," Rep. Frank Pallone (D-N.J.), the ranking member on the House Energy and Commerce Committee, said in December, shortly before the panel approved both measures.

Rothfus and Johnson maintain that special circumstances warrant the proposed carve-outs. By giving the 19 plants — most of them in Pennsylvania — that burn coal refuse a break on emissions standards for sulfur dioxide and hydrogen chloride, the "SENSE Act" would help them stay in business and continue to whittle away at the large amounts of coal refuse that still litter the state's landscape, Rothfus argues.

The waste, known locally as culm, is defined in the bill as any byproduct of coal mining that contains coal, clay and other materials.

Johnson points to the torturous history of the brick industry emissions standards as a reason for delaying compliance in his bill. Those standards were originally supposed to be issued in 2000. After EPA delivered an initial version in 2003, it was struck down four years later by the U.S. Court of Appeals for the District of Columbia Circuit.

By that time, however, manufacturers had already invested substantial sums in compliance, according to Johnson and industry advocates. The "BRICK Act" "seeks to ensure that this will not occur with respect to the current rule," according to a report on the bill recently compiled by Republican staffers on the Energy and Commerce Committee.

A three-judge panel on the D.C. Circuit held oral arguments in November on challenges from both industry and environmental groups to the 2015 regulations but has not yet ruled.

Under the Trump administration, EPA is also administratively reconsidering the regulations, with the latest rewrite now set for completion in 2019, according to court filings by agency chief Scott Pruitt (Greenwire, Nov. 6, 2017).

Democrats object that the bill would set a troubling precedent. Had Congress adopted a policy that Clean Air Act rulemakings would not be final until all court challenges were resolved, the United States "would not have realized the tremendous public health and environmental benefits that our country now enjoys," they wrote in a dissent included in the committee report.

Schedule: The Rules hearing is Monday, March 5, at 5 p.m. in H-313 Capitol.

At its midpoint, landmark Chesapeake Bay cleanup faces new stress

By Annie Snider, 3/2/18, 5:03 AM

Halfway into a landmark 15-year effort to put the Chesapeake Bay on the path to recovery, the region's six states and District of Columbia are set to admit Friday that they will miss their longstanding deadline, thanks, in part, to climate change.

The effort is already far behind its pollution reduction goals, and recent analyses on climate change and a major dam predict that significantly more pollution than expected will flow in the Bay in the coming years. At a meeting Friday to finalize their strategy for the second half of the cleanup effort, state leaders are expected to punt responsibility for addressing that threat of rising pollution beyond their 2025 deadline.

Political leaders say they remain strongly committed to meeting the aggressive pollution reduction targets that were laid out in their original 2010 agreement. But they argue that pushing for additional reductions now to address that rising pollution, when key states are already struggling to meet their current goals and the Trump administration is seeking to curtail EPA's involvement, would risk breaking apart the unique partnership among the states.

And, while none have doubted the existence of climate change, many of the state leaders are questioning the accuracy of the predictions about what will happen to the Bay. Those predictions were sharply revised just two and a half months ago, shortly before a meeting to decide on how to incorporate the changing weather dynamics into their plans.

"We have to show leadership on climate change in the context of the Chesapeake Bay, but we have to be very careful in factoring in some numeric [pollution] requirement that may cause so much blowback or consternation and isn't scientifically defensible," said Ben Grumbles, the head of the Maryland Department of the Environment and chair of the primary decision-making body for the Bay cleanup effort.

The decision on how to deal with the anticipated jump in pollution comes as the Chesapeake Bay cleanup plan faces a new level of political pressure in Washington. As the most ambitious — and controversial — attempt to clean up a large, multistate watershed, the effort is being closely watched by other states, environmental groups, the agricultural industry and developers as a potential model for other major waterbodies like the Gulf of Mexico and Lake Erie.

The Trump administration has repeatedly targeted the program, proposing eliminating the federal funding for the effort and other watershed programs in its fiscal 2018 budget plan. After fierce pushback from both Republicans and Democrats, the administration this year proposed funding for just two watershed programs — the Chesapeake Bay and Great Lakes — at only 10 percent of last year's levels.

Meanwhile, EPA Administrator Scott Pruitt's position on the program has been unclear. As Oklahoma attorney general, he joined with nearly two dozen states to support the American Farm Bureau Federation's legal challenge to the cleanup plan. But federal judges upheld the plan, and during his Senate confirmation hearing last year Pruitt switched positions, calling it a model of how states should work together with the support of EPA.

Downstream states with the most at stake in the cleanup plan fear that asking their upstream neighbors to make deeper pollution cuts to offset expected increases caused by climate change and the dam could prompt them to leave what is ultimately a voluntary agreement. Pennsylvania, in particular, has struggled to meet its goals for reducing agricultural runoff, and local leaders there are facing pushback from farmers who already feel stretched thin and residents who question why their taxes are going to a project whose benefits go mostly to people in the downstream states.

"I think any normal person would have not a positive reaction if they have made, over the last several years, good faith efforts to do land use practices that improve environmental quality and their reward for those efforts is, 'You have to do more,'" said John Bell, senior government affairs counsel for the Pennsylvania Farm Bureau.

But some environmental groups say that's no excuse to miss what could be a once-in-a-lifetime opportunity to restore the country's largest estuary.

"This is it. This big grand commitment on the part of EPA and on the part of the jurisdictions is to meeting their restoration goals by 2025. What comes after 2025 — especially in this new political climate — who knows what happens?" said David Flores, a policy analyst with the Center for Progressive Reform.

And he argued that putting off dealing with the an increase in pollutants, particularly those associated with climate change, will only end up costing more in the long run.

The agreement signed by the states and EPA in 2010 set a massive pollution budget for the 64,000-acre watershed that called for a limit of 185.9 million pounds of nitrogen, 12.5 million pounds of phosphorus and 6.45 billion pounds of sediment per year.

Those limits, which represented a 25 percent reduction in nitrogen, 24 percent cut in phosphorus and 20 percent drop in sediment, were what scientists calculated was necessary to restore the Bay to health. The goal was to have enough new practices — ranging from forest buffers along streams that take up excess fertilizer as it washes off farmland, to stormwater retention ponds that catch polluted urban runoff before it reaches waterways — in place to meet those total reduction goals by 2025.

But the plan's architects knew in 2010 that they couldn't anticipate every factor, and built in a reassessment halfway through the 15-year period.

That midpoint assessment has been underway for months, and key aspects are set to be voted on Friday at the meeting of top state environmental officials in Baltimore. EPA, which doesn't get a vote, will then be responsible for enforcing the approach the states decide on.

The Conowingo dam, which sits at the mouth of the Susquehanna River a few miles upstream of the Bay, had for years been trapping pollution-laden sediment in its reservoir, preventing it from fouling the estuary. The cleanup plan had counted on pollution remaining dammed up for at least another decade, but new research shows that the reservoir is nearly full already, and has lost its trapping capacity. The result: an additional 6 million pounds of nitrogen and 260,000 pounds of phosphorus making their way into the Bay each year, feeding algae blooms that suck up oxygen as they decompose and creating a massive dead zone.

The dam, which is owned by Exelon Corporation, has been a lightning rod in the fight over cleaning up the Bay for years. But negotiations this time around were eased by another factor: the hydroelectric facility is currently up for relicensing and, as part of that process, the state of Maryland must issue a water quality certification.

Maryland Gov. Larry Hogan's administration has taken a hard line, saying it will not recertify the dam unless Exelon moves to mitigate water quality impacts of the dam. A study commissioned by the Chesapeake Bay Foundation and The Nature Conservancy last year found that Exelon could afford to pay between \$27 million to \$44 million annually to offset the pollution coming from the dam.

Having that scale of money for pollution-reduction would significantly ease the burden on states, which are expected to agree to a framework that hinges on such funding and would spread responsibility for implementing the restoration practices across the watershed, albeit over a timeline that likely stretches past 2025.

But Exelon has fiercely disputed those numbers, and argued that it's not producing the nutrient-laden sediment, merely catching it as it washes downstream, so it shouldn't shoulder the biggest responsibility for cleaning it up.

"The overwhelming majority of sediment entering the Chesapeake Bay watershed originates from upstream states, not the Conowingo Dam — which doesn't create any sediment. Exelon should not bear this burden alone," Exelon spokeswoman Deena O'Brien said in a statement.

But the more controversial issue is climate change.

The original 2010 calculations did not account for its effects, although the agreement signed by the states and EPA committed to ultimately addressing the issue. Since 2014, EPA modelers and other scientific and technical experts have been studying it closely, trying to anticipate how heavier storms, warmer temperatures and rising seas will affect the flow of nutrients into the Bay, and what effect they will have once they're there.

The states agreed to address the issue in the midpoint assessment. But distilling global predictions about climate change down to a small geographical region for the short time period of a decade presents a huge scientific challenge, and minor tweaks in the model can result in significantly different predictions.

As recently as the fall, those models were suggesting that rising seas and increased precipitation would offset each other, at least for the factors that the Bay cleanup plan is most focused on. But the latest figures released ahead of the last meeting of top state officials in December showed a different picture, with the likely increase in precipitation bumping up nitrogen flows to the Bay by almost 4 percent.

Caught off guard by the scale of the problem and confused about how the numbers changed so dramatically, political officials balked at making any firm commitment to offset those increases. Instead, they agreed to continue the scientific research and revisit the issue in 2022 — just three years before the ultimate deadline for having the Bay on the path to recovery. In the meantime, the states are committing to include in their final workplans an analysis of how climate change stands to affect their efforts to reduce nutrient pollution, such as whether stormwater retention ponds are being built large enough to handle future storms.

Flores, the analyst with the Center for Progressive Reform, argued that this could result in four lost years.

"Without having an actual numeric target, they can spend as little or as much energy as they want from a narrative standpoint in these plans considering climate resilience, but not until they actually commit themselves to meeting some number will they have the incentive to dig into the technical details and figure out what needs to be done," he said.

But Donald Boesch, a marine scientist and former president of the University of Maryland Center for Environmental Science, said even he doesn't totally understand how the latest climate change numbers were arrived at. He has long pushed to include climate change in the Bay cleanup plan, but said apprehension of the states was warranted.

"[We shouldn't] dismiss the effects of climate change, but we really don't know yet what additional burden it will provide by 2025," he said. "It's going to be a major effort to achieve the reductions that we'd already agreed to, particularly in Pennsylvania, so why muddy the water?"

E&E Climatewire

<https://www.eenews.net/climatewire/stories/1060075237/search?keyword=EPA>

N.J. leaves legal fight after electing Democratic governor

By Niina Heikkinen, 3/2/18

New Jersey is officially out of litigation over the Obama administration's signature climate rule.

Yesterday, a federal appeals court approved the state's voluntary motion to withdraw from the case challenging the Clean Power Plan. The regulation would have controlled greenhouse gas emissions from power plants and was meant to be a key piece in the U.S. plan to limit CO2 under the Paris Agreement. The Trump administration is repealing the rule and possibly replacing it with a narrower version.

The decision to leave the case stems from the state's election of a Democratic governor to replace Republican Chris Christie. Gov. Phil Murphy has prioritized cutting carbon emissions by re-entering the Regional Greenhouse Gas Initiative, a 10-state cap-and-trade program from which Christie withdrew.

New Jersey is now the second state to leave the legal fight over the Clean Power Plan. North Carolina also withdrew after the state elected Democrat Roy Cooper as governor (E&E News PM, Jan. 30).

Also yesterday, the U.S. Court of Appeals for the District of Columbia Circuit announced it was extending the freeze on litigation in the Clean Power Plan case for an additional 60 days. The Trump administration had requested an abeyance in the case while it considered withdrawing and potentially rewriting the rule. Last spring, the D.C. Circuit granted the request, but the court still requires EPA to give status reports every 30 days on progress related to the case.

A separate Supreme Court decision has stalled implementation of the Clean Power Plan.

New Jersey's withdrawal comes a day after EPA held a listening session in San Francisco on the agency's proposal to repeal the Clean Power Plan. The agency faced strong backlash from officials in West Coast states.

"We might not prevail, but we believe that we're right, both on the law and on the science, and it's important to make that point because if they do proceed as proposed, then we're going to have to litigate, so it's important to have the record out there," said Mary Nichols, chairwoman of the California Air Resources Board (Climatewire, March 1).

AP

[https://apnews.com/83b9eda4572f42b18134c1282e14c393/Federal-agency-awards-\\$184K-water-grant-to-Tompkinsville](https://apnews.com/83b9eda4572f42b18134c1282e14c393/Federal-agency-awards-$184K-water-grant-to-Tompkinsville)

Federal agency awards \$184K water grant to Tompkinsville

3/2/18

TOMPKINSVILLE, Ky. (AP) — A Kentucky city has been awarded a \$184,000 grant for improvements to its water treatment plant.

The U.S. Environmental Protection Agency announced the water infrastructure grant Thursday to Tompkinsville.

The agency said in a news release that the funds will be used with \$496,850 in matching funds from the city to fund removal of existing sludge from the lagoon, expansion of the lagoon and installation of equipment to let the lagoon perform critical functions.

Tompkinsville Mayor Scotty D. Turner said in the release that the system will make it easier to accommodate additional customers and add industry to the system.

The existing water treatment plant provides drinking water service to about 5,900 residents in Tompkinsville and the Monroe County Water District.

Daily Interlake

http://www.dailyinterlake.com/local_news/20180301/erosion_control_work_to_begin_on_north_shore

EROSION CONTROL WORK TO BEGIN ON NORTH SHORE

By Lynnette Hintze, 3/1/18, 5:42 PM

Ongoing erosion that's eating away the north shore of Flathead Lake at a pace of 4 to 6 feet a year has prompted state and federal oversight agencies and property owner BNSF Railway to develop a stabilization plan that will commence later this month year at the former railroad tie plant in Somers.

The key objective is to take immediate corrective action to prevent creosote from a swamp pond on the property from getting into the lake. BNSF's portion of the shoreline has retreated up to 125 feet in some areas, and now, less than 15 feet separates the swamp pond, a historic creosote-laden holding pond for tie-plant wastewater, from the lake.

Roger Hoogerheide, project manager with the U.S. Environmental Protection Agency — accompanied by a string of state officials, BNSF representatives and conservation group stakeholders — explained the project to the Flathead County commissioners on Tuesday.

The plan is to add an offshore gravel beach and restore the emergent wetlands along 250 feet of BNSF property. To do that, about 1,400 cubic yards of material and over 1,000 plantings will be trucked to the site, with a scheduled start date of March 19, Hoogerheide said.

Because it's a Superfund site, BNSF isn't required to go through the county's permitting process for lakeshore applications. The project only has to meet the substantive requirements of the permit process under the Comprehensive Environmental Response, Compensation, and Liability Act, Hoogerheide said.

The commissioners strongly reprimanded the government agencies and BNSF for not bringing the county and the public into the planning process for the shoreline stabilization project.

"I'm really disgusted that a process [of involving the public] is not followed here by a government agency whose sole responsibility is to be responsible to the public," Commissioner Gary Krueger said. "I think this process is flawed."

The EPA mailed a fact sheet about the stabilization project to surrounding property owners on Feb. 22, alerting them of the Feb. 27 community meeting with the commissioners.

All three of the commissioners criticized the EPA and other agencies for the short notification period and lack of communication, but they stopped short of demanding the project be stopped.

Commissioner Phil Mitchell said he was frustrated that they were "stepping on our county without including us in a few meetings ... and yet I don't want creosote coming into Flathead Lake."

Commissioner Pam Holmquist likewise expressed frustration.

"I'm not going to say today, stop the project. I don't want to see creosote in the lake," Holmquist said. "You're starting in two weeks; how are we to address that? At the end of the day it's about not polluting Flathead Lake."

Hoogerheide apologized and said it was an oversight to not include the county in discussions, and added that the corrective action was reviewed by the U.S. Army Corps of Engineers. "They were OK with it," he said.

Richard Sloan, project officer with the state Department of Environmental Quality, said time is of the essence because officials don't want to see the site go through another spring runoff season.

"The real issue is time," Sloan said. "What we do between now and May to protect the swamp pond, we don't want to see delayed a year ... we need to make sure the swamp pond doesn't get breached."

The shoreline erosion is exacerbated by the operations of the SKQ Dam, formerly called Kerr Dam.

There was also discussion about how neighboring property owners have been affected by earlier erosion protections put in place through the EPA's cleanup plan and record of decision in 1989.

The tie plant operated from 1901 to 1986, and action was taken to restore the property.

Andrew Sliter, whose family corporation is a neighboring property owner, told the commissioners he and his family have had a long-running dialog with the Flathead Land Trust, Flathead Conservation District, Fish, Wildlife and Parks and other stakeholders to come up with a more comprehensive erosion plan for the north shoreline.

Sliter's sister, Andrea Sliter Goudge, said the family is concerned that BNSF's proposed shoreline work is "contained solely to the BN property line." There's been a difference of opinion, she said, between the corrective action Mark Lorang, a researcher with the University of Montana Flathead Lake Biological Station, has suggested, and what BNSF has proposed, Goudge said, largely involving the size of gravel to be used in the corrective action.

In a nutshell, BNSF plans to use larger rocks for erosion control, while Lorang believes smaller-sized rocks would be more effective.

"What we are concerned about is that the solution proposed won't protect the remedy because of the wave action," Goudge said.

Holmquist said she'd like to see BNSF work with Lorang, "who is quite knowledgeable about the north shore of Flathead Lake.

"It's quite concerning because the continued erosion affects neighboring properties," she said.

Mitchell also insisted that BNSF work with its neighbors.

"You guys need to be respectful of what you're doing to neighbors," Mitchell said. "I think you're forcing more erosion onto the neighbors' property. My other frustration is when two professionals can't come together. Right now I don't know who to believe."

BNSF spokesman Matt Jones said the railroad has had conversations with Lorang, the Sliters and Flathead Land Trust to protect the shoreline beyond BNSF's property, but he added, "from our perspective there's no longer an interest in that bigger project."

Other corrective action planned at the site this year includes continued recovery of wood-treating product from the subsurface (over 700 gallons have been collected since 2014); continued monitoring of site groundwater, including the Somer's drinking water supply well; expanding efforts to introduce air in the subsurface to degrade residual chemicals; and demolition of a water treatment plant and associated infrastructure. That demolition will begin this spring.